



**ZONING TEXT AMENDMENT –
CHAPTER 15.29 WIRELESS COMMUNICATION FACILITIES
TXT#002-13, SEPA#011-13**

**Yakima Planning Commission
Open Record Public Hearing
August 7, 2013**

EXHIBIT LIST

Applicant:	City of Yakima Planning Division
File Numbers:	TXT#002-13, SEPA#011-13
Site Address:	Citywide
Staff Contact:	Jeff Peters, Associate Planner

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**City of Yakima Planning Division's Recommendation on a Zoning Text
Amendment to the City's Urban Area Zoning Ordinance Regarding
Communication Towers**

TO: City of Yakima Planning Commission
FROM: Mark Kunkler, City Attorney
SUBJECT: Communication Tower Zoning Text Amendment

FOR PUBLIC HEARING OF: August 7, 2013

ISSUE:

Yakima Planning Commission (YPC) public hearing on a text amendments to the City of Yakima's Urban Area Zoning Ordinance (UAZO) Yakima Municipal Code (YMC) Title 15 adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

In addition, the draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts

STAFF RECOMMENDATION:

The City of Yakima Planning Division recommends that the YPC discuss and take public input regarding the proposed Zoning Ordinance addition, suggest appropriate revisions to the draft amendment as necessary, and provide a final recommendation to the Yakima City Council.

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HISTORY OF AMENDMENT:

On April 2, 2013, the Yakima City Council after hearing concerns from the Barge Chestnut Neighborhood Association about a proposed cell tower declared an emergency six month moratorium, *on the City receiving any new applications for cell tower installations while the City reviewed regulatory controls on siting standards, and set a public hearing for public input on the moratorium for May 21, 2013 at 7 p.m.*

On May 21, 2013, the Yakima City Council held the appropriate hearing taking into account the concerns of the general public with regard to the location of communication towers within the City, and approved the accompanying resolution adopting findings of fact in support of moratorium regarding telecommunications towers and facilities.

ENVIRONMENTAL REVIEW (SEPA)

On June 27, 2013, the City of Yakima issued a Notice of Application, Environmental Review, Public Hearing, and Determination of Non-Significance for this project.

Following the required 20-day public comment period where all interested parties and agencies had the right to comment, and three public comments were received. The City of Yakima made some minor amendments to the draft ordinance addressing some of the commenters concerns, and issued a Notice of Retention Regarding its Determination of Non-Significance for SEPA File #011-13, on July 19, 2013. The 14-day appeal period for this environmental determination lapsed on August 2, 2013, with no appeals filed.

PUBLIC NOTICE**DATE ACCOMPLISHED**

Notice of Application	June 27, 2013
Legal Ad Publication	June 27, 2013
Notice of Public Hearing	June 27, 2013
Notice of SEPA Determination Retention	July 19, 2013
Department of Commerce Notice of Intent to Adopt	June 24, 2013

COMMENTS FROM AGENCIES AND INTERESTED PARTIES

The City of Yakima has received, and continues to receive, comments from agencies and interested parties. The Barge Chestnut Neighborhood Association (BCNA) and representatives from AT & T Services, Inc. have met with staff and provided observations and recommendations. In addition, the City has received comments from interested agencies, particularly the Aviation Division of Washington State Department of Transportation reiterating that the requirements and restrictions of the City's Airport Safety Overlay (ASO) would apply specifically to tower heights within the overlay.

It should be emphasized that the proposed document may see further changes prior to the scheduled hearing before the Planning Commission on August 7, 2013. City staff also anticipates that further changes may be recommended by the Planning Commission following the August 7, 2013 public hearing.

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DISCUSSION OF PROPOSED AMENDMENTS:

I. Overview.

The attached material creates new Chapter 15.29 within the zoning code of the City of Yakima. The City's current code consists of the following section:

15.04.180 Communication towers.

The following provisions shall govern the placement of communication towers within the urban growth area:

1. Communication towers less than thirty-five feet in height require a Type (1) review to ensure compliance with minimum setbacks and building code requirements;
2. Communication towers thirty-five feet or greater in height require a Type (2) review to ensure compliance with setback provisions and that other permit procedures are reviewed and met; and
3. Communication towers more than fifty-five feet in height shall follow the review procedures for Class (3) uses and shall meet all the provisions and the building code. (Ord. 2008-46 § 1 (part), 2008: Ord. 2947 § 1 (part), 1986. Formerly 15.04.130).

Additionally, some provisions are found in the City's building codes, but these deal almost exclusively with structural elements of tower facilities and installation requirements. It is apparent that the limited land use controls under existing City codes do not adequately address the land use needs of the community.

As noted above, the City Council adopted a six-month moratorium on April 2, 2013 in order to allow for development of a comprehensive land use code pertaining to telecommunication facilities. The current moratorium is set to expire on October 1, 2013.

II. Summary of Proposed Code Sections.

15.29.010 Purpose.

A portion of this section was quoted at the beginning of this report. The section also describes the applicability of the code to "new uses," and "existing uses" – which would be considered as pre-existing nonconforming.

15.29.020 Definitions.

The definitions are extensive and comprehensive. It has been suggested that some definitions can be eliminated as they are not mentioned in the text of the proposed code. This has some merit, and some definitions have been removed which are never referenced in the actual code. Other definitions, while seemingly of little use, may be retained because they may be useful in defining terms or conditions in the permitting process.

15.29.030 Exemptions.

The exemptions are fairly self-explanatory and reflect other provisions of laws governing the telecommunications industry. For example, "licensed amateur (ham) radio stations" are exempt from legislation governing the telecommunications industry.

15.29.035 Modification of Existing Wireless Tower or Base Station.

This section was added to address recent federal legislation that provided that "modifications" of existing telecommunication towers and base stations, consisting of co-location, removal, or replacement of transmission equipment, that do not constitute a "substantial change" to the existing facility, must be approved. The Federal Communications Commission (FCC) has also issued a decision defining the concept of what constitutes a "substantial change." This definition and terminology has been incorporated into this section. The section also includes a review and permitting process within a 90-day "shot clock." The FCC had also ruled that a city may require submission of an application and issuance of a permit for these modifications, within a maximum 90-day processing period.

15.29.040 Site selection criteria.

This section states general principles applicable to site location, including identification of any alternate sites and effects on adjacent neighborhoods.

15.29.045 Protected areas.

This section was added to define certain designated areas where effects of telecommunication facilities would likely have significant adverse impact. "Protected areas" are defined to include:

Protected areas are: (a) established federal, state or local historic districts or historic district overlay zones; (b) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" historic district or overlay zones); (c) sites, buildings, structures or objects listed in the National Register of Historic Places; (d) state and local wildlife refuges, and permanently protected archeological sites; and (e) designated areas subject to preservation or protection through recorded conservation easement. Except as provided in 15.29.050, antennas and antenna support facilities are not permitted in or within 300 feet of any protected area.

15.29.050 Priority of locations.

The "priority of locations" section is an important part of the proposed code. This section lists different types of location ranging from "most favored" (least anticipated impact) to "least favored" (most anticipated impact). In order of priority, these locations are:

- a. Co-location on existing facilities;
- b. Public properties;
- c. Placement on existing structures/buildings in industrial and commercial zones, with appropriate camouflage and/or stealth;
- d. Placement in industrial zones, more than 300 feet from residential districts and more than 800 feet from protected areas;
- e. Local Business District (B-2) and Large Convenience Center (LCC) zones, more than 300 feet from residential districts and more than 300 feet from protected areas. (If within 300 feet of a residential district, or within 300 feet of a protected area, administrative approval is allowed if there is a showing that alternate location is not available, and imposition of camouflage and/or stealth.)
- f. In or within 300 feet of a residentially zoned district (other than within the B-2 or LCC zones), conditional use permit required, including appropriate camouflaging and/or stealth.
- g. In or within 300 feet of a protected area (other than within the B-2 or LCC zones), conditional use permit required, including appropriate camouflaging and/or stealth.

15.29.060 Siting priority on public property.

This section prioritizes types of "public property" that may be considered for siting of telecommunication facilities. These priorities are:

- a. City-owned property (subject to Airport Safety Overlay (ASO) zoning restrictions and requirements).
- b. Property owned by other public safety entities, law enforcement, fire prevention, ambulance entities.
- c. Property owned by other governmental agencies (not related to police, fire, ambulance services).
- d. Property owned by telecommunication service providers.

This section also requires use of a lease instrument, subject to listed conditions. Special provisions are included for any proposed location within a public park, including review by the Parks Commission.

15.29.070 Required submittals and testing.

This section describes the elements of an application for a telecommunication facility, including photo-simulations (plus balloon test for any proposed location within 800 feet of an environmentally sensitive area).

15.29.080 Co-location.

This section requires consideration of possible co-location options and states components of such consideration.

15.29.090 Design criteria.

Addressed here are requirements for setbacks, incorporation of provisions allowing for co-location of future facilities, tower separation, color of facilities, screening, tower location, parking, and other elements.

15.29.100 Permits required.

There are three types of approval included here: (a) administrative review and permit; (b) conditional use permit; and (c) variance.

a. Administrative Permit. The following are subject to administrative review and permit, unless otherwise noted:

1. Modifications to eligible existing facilities pursuant to 15.29.035 and 15.29.080 that do not constitute a substantial change; modifications that constitute a substantial change require a variance;

2. Antennas, towers and related facilities located within or upon government-owned property or structures where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;

3. Antennas, towers and related facilities located on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers, in industrial and commercial zoning districts where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;

4. Antennas, towers and related facilities located within industrial zones of the city, including proposed locations within 300 feet of residential zoned districts, where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;

5. Antennas, towers and related facilities located within the Local Business District (B-2) and Large Convenience Center (LCC) zoning districts where such proposed site is (a) more than 300 feet from residentially zoned districts and more than 300 feet from an environmentally sensitive area, and (b) such structures are camouflaged and/or disguised by stealth measures approved by the city.

An applicant that wishes to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and within 300 feet from residential zoned districts or within 300 feet of a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than 300 feet from residential zoned districts or more than 300 feet from a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and related facilities may approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of 15.29.070 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

b. Conditional Use Permit. The section provides that, except as listed above, all other proposed facilities would require a conditional use permit.

c. Variances. Variances are expected to arise in the arena where a proposed "modification" of an existing tower or base station constitutes a "substantial change."

The section includes a "Permit Table" summarizing the type of permit or approval required for each proposed development.

15.29.110 Inspection requirements.

This section requires annual inspection and reports.

15.29.120 Non-use/abandonment.

The section requires notification of abandonment and removal of the facility within six months.

15.29.130 Third party review.

If it is determined that a more detailed analysis of technical issues is required, this section authorizes the use of an independent party or agency to conduct a third-party review. The applicant and the city may cooperate in the selection of the third-party reviewed, but the applicant pays the costs.

15.29.140 Conditional use permits – Procedures – Conditions for granting.

A conditional use permit process is created for telecommunication facility approvals. Briefly, the Hearing Examiner would make determinations, findings and a decision regarding the application and impose conditions upon the project. The parameters of the Hearing Examiner's authority and duties is described in this section, together with the types of conditions that can be imposed.

15.29.150 Conditional use permits – Effect of hearing examiner decision.

"The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030."

15.29.160 Application form.

The forms used for applications and other permits will be created by the City.

15.29.170 Filing fees.

Filing fees are required, but not yet established.

15.29.180 Notice of hearing – Conditional use permits.

"Notice of all public hearings shall be given and prepared as required by Chapter 16.05 YMC."

15.29.190 Reapplication.

"Upon final action as set forth in this chapter in denying an application for a conditional use permit, the city shall not accept further filing of an application for

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substantially the same matter within one year from the date of any final denial of an application."

15.29.200 Transfer of ownership.

"A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted."

15.29.210 Vacation of permits.

"A. Any conditional use permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exist.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city."

15.29.220 Violation – Penalty.

"Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes."

RECOMMENDATION

It is staff's desire that the Planning Commission review the proposed code and provide observations, suggested revisions and its recommendation. We also welcome the comments of those participating in the public hearing, representatives of the BCNA and representatives of the telecommunications industry. As mentioned above, we have already benefited from comments provided by stakeholders and interested parties.

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Staff's recommendation is that the Planning Commission recommend adoption of the new code by the City Council, with any changes identified by the Planning Commission. Following the public hearing, any appropriate findings of fact and conclusions will be presented.

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Chapter 15.29 WIRELESS COMMUNICATIONS FACILITIES

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- 15.29.030 Exemptions.
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- 15.29.220 Violation – Penalty.

15.29.010 Purpose.

A. The purpose of this chapter is to establish general guidelines for the siting of towers and antennas.

The goals of this chapter are to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

1. To manage the location of towers and antennas in the city;
2. To protect residential areas and land uses from potential adverse impacts of towers;
3. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;
4. To accommodate an increased need for towers to serve the wireless communications needs of city residents;
5. To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;
6. To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and
7. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.

B. New Uses. All new antennas shall comply with this chapter after the effective date of the ordinance codified in this chapter.

C. Existing Uses. All towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this ordinance shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this chapter.

1. These standards were developed to protect the public safety and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city and providing for wireless communications necessary for governmental purposes. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

2. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city.

3. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in Title 16 YMC, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

"Abandonment" means to cease operation for a period of sixty or more consecutive days.

"Administrator" means the director of the city's department of community development and his or her designees.

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

"Antenna" means any exterior apparatus designed for telephonic, radio, data, internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the natural grade of the parcel at the lowest elevation point of the support structure's perimeter. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the city.

"Balloon test" means a test for a reasonable period of time, not less than three consecutive workdays, whereby a balloon of sufficient size to replicate the size of the top of a proposed tower and antenna array is tethered to the ground at the location of the proposed base for a pending new tower application and the

balloon is suspended at the height that replicates the height of the proposed tower and antenna array. No trees shall be removed to conduct the balloon test.

"Base station" is defined as a facility or structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

"Camouflaged" means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure, or new structure, tower, or mount within evergreen trees so as to be significantly screened from view, or designed to resemble surrounding natural features.

"Cell site" or "site" means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

"City" means the city of Yakima.

"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

"Conditional use permit" or "CUP" means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance

"COW" means "cell on wheels." A cell on wheels or other temporary personal wireless communications facility.

"Design" means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.

"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Governing authority" means the city council of the city of Yakima.

"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Grantee" means both licensees and franchisees granted certain rights and obligations as more fully described herein.

"Hearings examiner" means the duly appointed hearings examiner of the city.

"Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

"Mount" means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
- B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
- C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Occupy" means to construct, install, maintain, own, or operate telecommunications facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via telecommunications facilities owned by another telecommunications provider does not constitute occupying the rights-of-way.

"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

"Personal wireless service," "personal wireless service facilities," and "facilities" used in this title shall be defined in the same manner as in Title 47, USC, Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

"Protected areas" are: (a) established federal, state or local historic districts or historic district overlay zones; (b) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" historic district or overlay zones); (c) sites, buildings, structures or objects listed in the National Register of Historic Places; (d) state and local wildlife refuges, and permanently protected archeological sites; and (e) designated areas subject to preservation or protection through recorded conservation easement.

"Provider" means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual that provides personal wireless service over personal wireless service facilities.

"Rights-of-way" means land acquired or dedicated for public roads and streets, as further defined in 15.02.020, but does not include (a) land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; (b) structures, including poles and conduits, located within the right-of-way; or (c) federally granted railroad rights-of-way acquired under 43 USC, Section 912, and related provisions of federal law, that are not open for motor vehicle use.

"Right-of-way use permit" means the authorization by which the city grants permission to a service provider to enter and use the right-of-way at a specific location for the purpose of installing, maintaining, repairing, or removing identified facilities.

"Screening" means a continuous fence and/or evergreen landscaped planting that conceals the property it encloses.

"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"State" means the state of Washington.

"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.

"Secondary use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

"Stealth" means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within and disguised by an existing or proposed structure,

"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.

"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of definition "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service excludes the over-the air transmission of broadcast television or broadcast radio signals, facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with condition, or deny the application in accordance with the time frames set forth in YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. "Tower" also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.

"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.

"Unlicensed wireless services" means commercial mobile services that operate on public frequencies and do not need an FCC license.

15.29.030 Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
- B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.
- C. Radar systems for military and civilian communication and navigation.
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster.
- E. Licensed amateur (ham) radio stations.
- F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.
- G. Routine maintenance or repair of a personal wireless service facility and related equipment(excluding structural work or changes in height, type or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter are maintained.
- H. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty days after the completion of such emergency activity.
- I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of ninety days in any three hundred sixty-five day period or during an emergency declared by the city.

15.29.035 Modification of Existing Wireless Tower or Base Station.

Pursuant to 47 U.S.C Section 1455(a), any request from an eligible facility for modification of an existing wireless tower or base station, which modification consists of a request for co-location, removal, or replacement of transmission equipment, that does not substantially change the physical dimensions of such tower or base station shall be administratively processed and approved. This section states provisions and procedures applicable to (a) requests for modifications that do not substantially change the physical dimensions of an existing wireless tower or base station, and (b) requests for modifications that substantially change the physical dimensions of an existing wireless tower or base station

A. Definitions. The following terms shall have the following meanings for purposes of this section:

(1) "Tower" is defined as any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

(2) "Base station" is defined as a facility or structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

(3) A "substantial change in the physical dimensions" occurs if:

(a) the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(b) the mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(c) the mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(d) the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

B. Application. Any eligible facility requesting modification of an existing wireless tower or base station, which modification consists of a request for co-location, removal, or replacement of transmission equipment, shall submit an application, on a form provided by the City, for a modification permit. The application shall include the following:

- (1) The name, address, signature and contact information of the applicant, and identification of relationship to any FCC licensee of the affected facility;
- (2) Site plan or schematic drawing showing the current location and dimensions of the wireless tower and base station, drawn to scale;
- (3) Site plan and schematic drawing, drawn to scale, showing the location and dimensions of the requested modification to the wireless tower and/or base station;
- (4) A computation and description of the proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility; and
- (5) Any other information deemed necessary or appropriate by the City to assist in the timely processing of the application.

C. Review of Application – Determination of Substantial Change. Within 45 days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification constitutes (a) a substantial change to the physical dimensions of an existing wireless tower or base station, or (b) no substantial change to the physical dimensions of an existing wireless tower or base station. The administrator may request additional information from the applicant or any other entity to assist in this determination.

(1) Modification Permit – Finding of No Substantial Change. If the administrator determines that such application establishes that such requested modification does not substantially change the physical dimensions of an existing wireless tower or base station, he shall issue a modification permit. Issuance of such modification permit shall authorize issuance of any necessary and appropriate building permits to accomplish such modification, subject to payment by applicant of applicable permit fees and compliance with applicable permit requirements. Issuance of all required permits shall occur within 90 days after receipt and approval of a complete application for a modification permit. The administrator may impose conditions necessary to achieve compliance with the provisions of this section.

(2) Application – Finding of Substantial Change. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, he shall issue a written decision and deliver such decision to the applicant.

Any modification that substantially changes the physical dimensions of an existing wireless tower or base station shall be subject to the applicable permit and application requirements of this chapter.

D. Appeals. The decision of the administrator shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

15.29.040 Site selection criteria.

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's local grid system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate by engineering evidence why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site. Further, the applicant must demonstrate by engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the grid system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact within the zone district. In all zones, towers shall be significantly screened by placing them in trees to the extent that it does not result in significant signal degradation.

15.29.045 Protected areas.

Protected areas are: (a) established federal, state or local historic districts or historic district overlay zones; (b) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" historic district or overlay zones); (c) sites, buildings, structures or objects listed in the National Register of Historic Places; (d) state and local wildlife refuges, and permanently protected archeological sites; and (e) designated areas subject to preservation or protection through recorded conservation easement. Except as provided in 15.29.050, antennas and antenna support facilities are not permitted in or within 300 feet of any protected area.

15.29.050 Priority of locations.

The order of priorities for locating new personal wireless service facilities shall be as follows:

- A. Co-locate antennas, towers and related structures on existing antennas, towers and facilities in accordance with 15.29.080.
- B. Place antennas and towers on public property as further described in 15.29.060 where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the administrator.
- C. Place antennas, towers and related facilities on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers, in the industrial and commercial zoning districts, where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the administrator.
- D. Place antennas, towers and related facilities on properties in the industrial zoning districts where such antennas, towers and related facilities are sight-screened as approved by the administrator. Antennas, towers and related facilities on properties in the industrial zoning districts, which proposed antennas, towers and/or related facilities are located within 300 feet from residential zoned districts, shall be approved by the administrator, subject to disguise by camouflage or stealth deemed appropriate by the administrator. Antennas, towers and related facilities on properties in the industrial zoning districts, which proposed antennas, towers and related facilities are located within 300 feet from a protected area require a conditional use permit with camouflage or stealth deemed appropriate.
- E. Place antennas and towers in districts zoned Local Business District (B-2) and Large Commercial Center (LCC), subject to the following conditions:
 - 1. Antennas, antenna support structures and towers located within the Local Business District (B-2) or Large Commercial Center (LCC) districts shall be placed, if possible, no closer than 300 feet from residential zoned districts and no closer than 300 feet of a protected area. An application to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and more than 300 feet from residential zoned districts and more than 300 feet from a protected area may approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth.
 - 2. An applicant that wishes to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and within 300 feet from residential zoned districts or within 300 feet of a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than 300 feet from residential zoned districts or more than 300 feet from a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and related facilities may approved by the administrator, subject to the administrator's approval of

camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of 15.29.070 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

F. Place antennas and towers in residential zoning districts or within 300 feet of residential zoned districts, other than within the B-2 and LCC zoning districts as provided in subsection E above, subject to the following conditions:

1. An applicant that wishes to locate a new antenna support structure in a residential zone, or within 300 feet of residential zoned districts, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a nonresidential zone, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available.
2. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
3. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
4. The proposed antenna, tower and antenna support structure is camouflaged or disguised by stealth.

G. Place antennas and towers in or within 300 feet of a protected area, other than within the B-2 and LCC zoning districts as provided in subsection E above, subject to the following conditions:

1. Antennas and towers facilities proposed to be located in or within 300 feet of an established or pending federal, state or local historic district or historic district overlay, are facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places. (See 16 U.S.C. 470w(5); 36 CFR part 60 and 800.). Applicant shall comply with applicable provisions of the National Environmental Policy Act (NEPA), including but not limited to the Environment Assessment provisions of 47 C.F.R. 1.1307, *et seq.* and comply with any mitigations imposed therein.

2. An applicant that wishes to locate a new antenna support structure in or within 300 feet of an a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures or site outside and more than 300 feet from a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available.
3. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
4. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
5. Antennas and towers facilities proposed to be located in an established or pending federal, state or local historic district, historic district overlay, or other protected area, are subject to review by the district's or organization's governing body or assigned committee regarding recommendations for camouflage, stealth, and landscaped sight-screening elements.
- 6.. The proposed antenna, tower and antenna support structure is disguised by stealth structure or is camouflaged.

15.29.060 Siting priority on public property.

A. Where public property is sought to be utilized by an applicant, priority for the use of government-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of Yakima, except that any facilities proposed for location within the Airport Safety Overlay (ASO) are further subject to the limitations and requirements of Chapter 15.30 YMC;
2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Yakima and private entities with a public safety agreement with the city of Yakima;
3. Other governmental entities, for uses that are not related to public safety; and
4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced

specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.

B. Minimum Requirements. The placement of personal wireless service facilities on city-owned property is subject to the discretion and approval of the city and must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the city-owned property is intended;
2. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
3. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
5. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users.
6. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;
7. The applicant must obtain all necessary land use approvals; and
8. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested.

C. Special Requirements for Parks. The use of city-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The city parks commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation has been forwarded to the city council for consideration and approval;

2. In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;
3. Before personal wireless service facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated;
4. Personal wireless service facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
5. Personal wireless service facilities may be located in park maintenance facilities.

15.29.070 Required submittals and testing.

Required submittals include:

- A. If the applicant is not the landowner, the landowner(s) shall be considered co-applicant(s) and shall sign the application. If any applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State's Office.
- B. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:
 1. They agree to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original pre-structure condition within the applicable time limits set forth in YMC 15.29.120 following receipt of a letter from the city indicting that the facility is deemed abandoned or in violation of this chapter; and,
 2. In the case of freestanding /antenna support structures, they consent to co-location, at reasonable terms, of as many antennas and related equipment as feasible, including those of other communication providers, on the applicant's structure/site.
- C. Complete application for conditional use permit, including State Environmental Policy Act (SEPA) checklist.
- D. A balloon test and photo-simulation as described in subsection F below are required for any proposed antenna tower in or within 300 feet of a protected area. The balloon test shall be conducted prior to the hearing on the permit application. The purpose of the balloon test is to enable the applicant, abutting and neighboring property owners, and the city to better understand the height and visual impact of the proposed tower and antenna array and to provide useful evidence for consideration before the hearing examiner on the permit application. A balloon test is also required when an application for modification proposes a substantial change to the height of an existing wireless facility. Advance notice of the date and time of the balloon test shall be provided to owners of record of property within 300 feet of

the balloon test site. Such notice shall be given in accordance with the provisions of Chapter 16.05 YMC, and may be combined with notice of application. City will also post notice at a location or locations deemed appropriate by the city, and will provide notice to the governing body of any affected historic district association or organization. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

E. Other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the information required by this chapter in addition to any additional requirements of YMC Title 15, and other applicable ordinances;

F. A photo-simulation of the proposed facility from affected residential properties and public rights-of-way at varying distances must be provided. Where a balloon test is required for proposed facilities in or within 300 feet of a protected area, then photos of the balloon test from six locations located approximately three hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower shall be submitted within two weeks after the commencement of the balloon test;

G. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed materials used to construct and color(s) of the facility;

H. A signed statement indicating that (1) the applicant and landowner agree they will allow co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to prevailing market rates, and (2) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;

I. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

J. A site plan clearly indicating the location, type and height of the proposed tower or antenna support structure and antenna, accessory buildings, fencing, landscaping, topographic contours of the site at two-foot intervals, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower; and all other items required in this chapter;

K. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant, or sites acquired by applicant for the benefit of, or on behalf of, any other personal wireless service facility operator, and those proposed by the applicant that are close enough to impact service within the city;

- L. Legal description of the parcel, if applicable;
- M. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
- N. A landscape and irrigation plan showing specific landscape materials and irrigation system;
- O. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;
- P. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations;
- Q. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users;
- R. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
- S. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC; and
- T. At the time of site selection, the applicant shall demonstrate how the proposed site fits into its overall network within the city.
- U. A map showing the location of any properties that are within 300 feet of the proposed site that are protected areas.

15.29.080 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

- A. Proposed facilities may, and are encouraged to, co-locate onto existing towers. Such co-location is permitted by right and a new or additional conditional use permit approval is not required, unless additional height or dimensions are proposed that constitute a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, except that co-location shall be accomplished in a manner consistent with the policy, site criteria, and landscape/screening/camouflaging provisions contained in this chapter.

The applicant must submit detailed plans to the planning department to determine if the conditional use can be waived and an administrative permit issued. No building permit will be issued until approval is granted.

C. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.

D. To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennas for more than one wireless service provider, unless the applicant demonstrates why such design is not feasible for technical or physical reasons; or for aesthetic reasons necessary to preserve camouflaging or stealth structures in residential or protected areas.

E. Unless co-location is not feasible: (i) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement; and (ii) the site plan for towers must propose space for at least one comparable provider.

F. All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the city may require a third party technical study, at the expense of the applicant to resolve the dispute.

G. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

15.29.090 Design criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. All facilities shall comply with the following standards:

1. Setback. A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential zones or where a proposed tower is on property abutting a residential use, towers shall be set back from all property lines a distance equal to one hundred percent of tower height as measured from ground level. In all other zones, or where a proposed tower site does not adjoin an existing residential use, towers shall be set back a minimum of thirty feet. When making a decision on a variance application to reduce setbacks, the hearing examiner shall consider the following:

- a. Impact on adjacent properties, including viewsheds, shadowing, visual dominance of the tower and base structures as seen from streets and rights-of-way, and historic integrity of the neighborhood;
- b. Alternative sites for personal wireless facilities; and

- c. The extent to which screening and camouflaging will mitigate the effects of the personal wireless facilities.
2. Right-of-Way Setback Exception. The setback requirement is waived if the antenna and antenna support structure are located in the city right-of-way, provided the antenna is attached to an existing utility pole and does not substantially increase the height of the utility pole and/or extend above the utility pole by an amount determined to be a substantial modification pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and applicable interpretations of the Federal Communications Commission . Wireless facilities attached to utility poles are permitted in all zones subject to approval by the city in its sole discretion, and pursuant to license or franchise agreements with the city.
3. Tower and Antenna Height. The applicant shall have the burden of demonstrating that the tower and antenna is the minimum height required to meet the proven communications need. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount together with antenna shall exceed sixty feet in all single-family, multifamily residential, Downtown Commercial, and Professional Office zones or one hundred ten feet in other zones.
4. Tower Separation. In no case shall towers be located closer than five hundred feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity. In residential districts and protected areas, no tower shall be located closer than 1,500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity.
5. Color. Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.
6. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.
7. Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip.
8. Landscaping.

a. Landscaping. Landscaping, as described herein, shall be required to buffer personal wireless service facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping. Wire fencing may be allowed if it is fully screened. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

i. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

iv. To guarantee required landscaping the applicant shall provide the city with a two-year landscape maintenance guarantee.

v.. In the event that landscaping is not maintained at the required level after the two-year landscape guarantee period, the city after giving thirty days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

9. Screening. Screening, camouflaging or otherwise integrating a telecommunications facility into existing features on the site in order to make the facility as visually unobtrusive as possible, shall take priority over increased height to accommodate co-location. A personal wireless telecommunications facility shall be integrated through location and design to blend in with the existing "character" of the site so as to be visually unobtrusive or screened. To be considered screened the tower or mount shall be placed amongst and adjacent to (within twenty feet) of the drip line of three or more evergreen trees at least seventy-five percent of the height of the facility. To ensure the screening trees are preserved the following note shall be recorded on the property title:

All trees within 50 feet of the telecommunications facility located on this property, which serve to screen the telecommunications facility shall be retained for the life of the telecommunications facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed.

If located in or within 300 feet of a residential zoning district or in or within 300 feet of established or pending federal, state or local historic district overlay zones, structures, sites or objects listed in the National Register of Historic Places, state and local wildlife refuges, and permanently protected archeological sites, camouflaging shall be accomplished by designing the facility to look like surrounding evergreen trees or other customary structures in the area.

10. Required Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the existing environment.

11. Antenna Criteria. Antenna on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than sixteen feet above the roofline, including parapets.
- c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color. Materials shall be brick, split face block, horizontal siding, or similar high quality durable materials common to residential or commercial buildings.

f. The antenna and any accessory buildings must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the city, in the city's sole discretion.

h. On buildings thirty feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

ii. Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.

i. For antenna attached to the roof or sides of a building at least thirty feet in height, an existing tower, a water tank, or a similar structure the antenna must be either: An omnidirectional or whip antenna no more than seven inches in diameter and extending no more than sixteen feet above the structure to which they are attached; or

A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than ten feet.

If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of one hundred miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.

j. Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

k. If a proposed antenna is located on a building or a lot subject to a land use permit, approval is required prior to the issuance of a building permit.

12. Equipment Structures.

a. Ground level equipment, buildings, and the tower base shall be screened from public view and from the view of abutting properties. The standards for the equipment buildings are as follows:

b. The maximum floor area is three hundred square feet and the maximum height is twelve feet.

c. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than two hundred fifty feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

d. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

e. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

f. Roof-mounted. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary in the city's sole discretion if co-location and an adequate screening structure is used.

13. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is

longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense.

14. **Building Codes – Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

15. **Structural Design.** Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrates compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC RF Emission standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

16. **Antenna Support Structure Safety.** The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

15.29.100 Permits required.

In addition to the other provisions of this chapter the following permits are required unless otherwise stated:

A. The following, which are subject to administrative review, approval and permit:

1. Modifications to eligible existing facilities pursuant to 15.29.035 and 15.29.080 that do not constitute a substantial change; modifications that constitute a substantial change require a variance;
2. Antennas, towers and related facilities located within or upon government-owned property or structures where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
3. Antennas, towers and related facilities located on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers, in industrial and commercial zoning districts where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
4. Antennas, towers and related facilities located within industrial zones of the city, including proposed locations within 300 feet of residential zoned districts, where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
5. Antennas, towers and related facilities located within the Local Business District (B-2) and Large Convenience Center (LCC) zoning districts where such proposed site is (a) more than 300 feet from residentially zoned districts and more than 300 feet from a protected area, and (b) such structures are camouflaged and/or disguised by stealth measures approved by the city.

An applicant that wishes to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and within 300 feet from residential zoned districts or within 300 feet of a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than 300 feet from residential zoned districts or more than 300 feet from a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and related facilities may be approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of 15.29.070 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

B. Except as set forth in subsection A above, a conditional use permit is required for all proposed antennas, towers and related facilities.

C. Procedures governing variances are set forth in Chapter 15.21 YMC; provided, however, that the criteria for variance approval shall be governed by the following provisions. A variance from the height or area limit that constitutes a substantial change may be granted if the applicant can show by evidence that the additional height is necessary to provide adequate service to the residents of the city and no other

alternative is available. When granting a variance the examiner shall require that a significant portion of the tower and related facilities be screened by existing evergreen trees or existing structures.

1. The purpose of this subsection is to provide a means of increasing the maximum height of tower and antenna in specific instances where the strict application of those limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven communications need.
2. The examiner shall have the authority to grant a variance from the maximum height allowed for tower or antenna when, in his/her opinion, the conditions as set forth in subsection (3) herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.
3. Before a height variance can be granted, it shall be shown that the applicant demonstrates all of the following:
 - a. That there is evidence that additional height is required to provide adequate service to the residents of the city and that no other alternative is available;
 - b. That there are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;
 - c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
 - d. That any visual impacts will be mitigated to the greatest extent possible using camouflage or screening, including but not limited to strategic placement next to existing buildings or vegetation or incorporation with architectural features of existing buildings or structures;
 - e. That the location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and
 - f. That the variance is the minimum necessary to grant relief to the applicant.
4. The applicant has the burden of proving that the proposed variance meets all of the criteria in subsection (B)(3) of this section, Decision Criteria.
5. The examiner may approve an application for a variance with additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions.

6. The examiner shall deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection (B)(3) of this section,

a. Project permit review procedures are specified in YMC Title 16, Administration of Development Permit Regulations. The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

Permit Table*

<u>Type of Use</u>	<u>Permit Required</u>
Co-location (No Substantial Change)	Administrative Permit
Co-location (Substantial Change)	Variance
New Tower (City-owned Property)	Administrative Permit/Lease
New Tower (Public Property)	Administrative Permit (with approval of camouflage/stealth)
New antenna (existing structures, industrial and commercial zoning districts)	Administrative Permit (with approval of camouflage/stealth)
New Tower (industrial zoning district, more than 300 feet from residential zone and more than 300 feet from protected area)	Administrative Permit (with approval of sight-screening)
New Tower (industrial zoning district, within 300 feet of residential zone)	Administrative Permit (with approval of camouflage/stealth)
New Tower (industrial zoning district, within 300 feet of protected area)	Conditional Use Permit
New Tower (B-2 or LCC zoning district, more than 300 feet from residential zone and	Administrative Permit (with approval of camouflage/stealth)

more than 300 feet from protected area)

New Tower (B-2 or LCC zoning district,
within 300 feet of residential zone or within
300 feet of protected area)

Administrative Permit
(with approval of camouflage/stealth)

New Tower (within 300 feet of residential
zoning district, not in B-2 or LCC district)

Conditional Use Permit

New Tower (within 300 feet of
protected area, not in B-2 or LCC district)

Conditional Use Permit

* Applicable permits include building permits and other permits required for installation.

15.29.110 Inspection requirements.

Within 60 days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months. The applicant shall provide a financial guarantee in the form of a bond or other financial instrument acceptable to the city in an amount sufficient to reimburse all costs associated with facility removal should it be necessary.

15.29.120 Non-use/abandonment.

A. Abandonment. No less than thirty days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Yakima by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the city's discovery of discontinuation of operation. Upon such abandonment, the provider shall have sixty days or additional period of time determined in the reasonable discretion of the city within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate

another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.

3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility.

At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire.

15.29.130 Third party review.

Personal wireless service providers use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of their services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process. The costs of the technical review shall be borne by the provider.

The selection of the third party expert may be by mutual agreement between the provider and the city, or, at the discretion of the city, with a provision for the provider and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facilities or a review of the providers' methodology and equipment used and not a subjective review of the site that was selected by a provider. Based on the results of the expert review, the city may require changes to the provider's application. The expert review shall address the following:

- A. The accuracy and completeness of submissions;
- B. The applicability of analysis techniques and methodologies;
- C. The validity of conclusions reached; and
- D. Any specific technical issues designated by the city.

15.29.140 Conditional use permits – Procedures – Conditions for granting.

A. Application. An application for a conditional use permit under this chapter shall be submitted to the director of the city's community development department who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and Title 16 YMC. Prior to issuing a determination of completeness, the director shall have authority to request additional information and reports from the applicant, including but not limited to third party review in accordance with YMC 15.29.130 and reports, surveys and tests as provided in YMC 15.29.070, when the director, in his or her sole discretion, deems such additional information necessary or appropriate to make the application complete, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety or persons, or quiet enjoyment of property, identified by the director as likely, with reasonable probability, to result from the proposed project.

Upon the director's determination that the application is complete and in compliance with filing requirements of this chapter, the director, in coordination with the hearing examiner, shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of Title 16 YMC.

B. Hearing Examiner. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

(1) Before any conditional use may be granted, it shall be shown that:

- (a) The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;
- (b) The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;
- (c) The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
- (d) The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan;
- (e) All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located.

(2) The conditions may:

- (a) Increase requirements in the standards, criteria or policies established by this title;
- (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;
- (c) Require structural features or equipment essential to serve the same purpose set forth above;
- (d) Impose conditions similar to those set forth in subsections (2)(b) and (2)(c) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
- (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
- (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and
- (g) Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.

15.29.150 Conditional use permits – Effect of hearing examiner decision.

The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030.

15.29.160 Application form.

The director of the city's community development department may prescribe the form in which applications are made for a conditional use permit and other applications authorized pursuant to this chapter. The director may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

15.29.170 Filing fees.

The application for a conditional use permit shall be accompanied by a filing fee in the amount of \$ _____.

15.29.180 Notice of hearing – Conditional use permits.

Notice of all public hearings shall be given and prepared as required by Chapter 16.05 YMC.

15.29.190 Reapplication.

Upon final action as set forth in this chapter in denying an application for a conditional use permit, the city shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

15.29.200 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted.

15.29.210 Vacation of permits.

A. Any conditional use permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exist.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city.

15.29.220 Violation – Penalty.

Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes.

Chapter 15.29 WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 15.29.010 Purpose.
- 15.29.020 Definitions.
- 15.29.030 Exemptions.
- 15.29.035 Modification of Existing Wireless Tower or Base Station.
- 15.29.040 Site selection criteria.
- 15.29.045 ~~Prohibited locations~~ Protected locations.
- 15.29.050 Priority of locations.
- 15.29.060 Siting priority on public property.
- 15.29.070 Required submittals and testing.
- 15.29.080 Co-location.
- 15.29.090 Design criteria.
- 15.29.100 Permits required.
- 15.29.110 Inspection requirements.
- 15.29.120 Non-use/abandonment.
- 15.29.130 Third party review.
- 15.29.140 Conditional use permits – Procedures – Conditions for granting.
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- 15.29.190 Reapplication.
- 15.29.200 Transfer of ownership.
- 15.29.210 Vacation of permits.
- 15.29.220 Violation – Penalty.

15.29.010 Purpose.

A. The purpose of this chapter is to establish general guidelines for the siting of towers and antennas.
The goals of this chapter are to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;

5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary:

1. To manage the location of towers and antennas in the city;
2. To protect residential areas and land uses from potential adverse impacts of towers;
3. To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;
4. To accommodate an increased need for towers to serve the wireless communications needs of city residents;
5. To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future;
6. To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and
7. To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.

B. New Uses. All new antennas shall comply with this chapter after the effective date of the ordinance codified in this chapter.

C. Existing Uses. All towers and antennas existing on the effective date of the ordinance codified in this chapter that are not in compliance with this ordinance shall be allowed to continue as they presently exist, but will be considered nonconforming uses. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the requirements of this chapter.

1. These standards were developed to protect the public safety and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunication services in the city and providing for wireless communications necessary for governmental purposes. These standards were designed to comply with the Telecommunications Act of 1996. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

2. To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city.

3. The city shall approve, approve with conditions, or deny the application in accordance with the time frames set forth in Title 16 YMC, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

15.29.020 Definitions.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

"Abandonment" means to cease operation for a period of sixty or more consecutive days.

"Administrator" means the director of the city's department of community development and his or her designees.

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

"Antenna" means any exterior apparatus designed for telephonic, radio, data, internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower, structure or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular," "enhanced specialized mobile radio" and "personal communications services," telecommunications services, and its attendant base station.

"Antenna height" means the vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the natural grade of the parcel at the lowest elevation point of the support structure's perimeter. "Antenna support structure" means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

"Applicant" means any provider or any person, partnership, company, or government agency that files an application for any permit necessary to install, maintain, or remove a personal wireless service facility within the city.

"Balloon test" means a test for a reasonable period of time, not less than three consecutive workdays, whereby a balloon of sufficient size to replicate the size of the top of a proposed tower and antenna array is tethered to the ground at the location of the proposed base for a pending new tower application and the

balloon is suspended at the height that replicates the height of the proposed tower and antenna array. No trees shall be removed to conduct the balloon test.

"Base station" is defined as a facility or structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

"Camouflaged" means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure, or new structure, tower, or mount within evergreen trees so as to be significantly screened from view, or designed to resemble surrounding natural features.

"Cell site" or "site" means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

"City" means the city of Yakima.

"City property" means all real property owned by the city whether in fee ownership or other interest.

"Co-location" means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

"Conditional use permit" or "CUP" means a process and approval as described in this chapter and in YMC Title 15, Yakima Urban Area Zoning Ordinance

"COW" means "cell on wheels." A cell on wheels or other temporary personal wireless communications facility.

"Design" means the appearance of personal wireless service facilities, including such features as their materials, colors, and shape.

"EIA" means the Electronics Industry Association.

"Equipment enclosure" means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies and emergency generators.

"Excess capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the right-of-way that is or will be available for use for additional telecommunications facilities.

"Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communications and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Governing authority" means the city council of the city of Yakima.

"Governmental entity" means the state of Washington, Yakima County, the city, municipally owned utilities, and special purpose districts including the school, fire and library districts.

"Grantee" means both licensees and franchisees granted certain rights and obligations as more fully described herein.

"Hearings examiner" means the duly appointed hearings examiner of the city.

"Modification" means the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

"Mount" means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
- B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
- C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

"Occupy" means to construct, install, maintain, own, or operate telecommunications facilities located within city rights-of-way. The mere passage of electronic signals over, under, or through rights-of-way via telecommunications facilities owned by another telecommunications provider does not constitute occupying the rights-of-way.

"Overhead facilities" means utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities and individuals.

"Personal wireless service," "personal wireless service facilities," and "facilities" used in this title shall be defined in the same manner as in Title 47, USC, Section 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

"Protected areas" are: (a) established federal, state or local historic districts or historic district overlay zones; (b) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" historic district or overlay zones); (c) sites, buildings, structures or objects listed in the National Register of Historic Places; (d) state and local wildlife refuges, and permanently protected archeological sites; and (e) designated areas subject to preservation or protection through recorded conservation easement.

"Provider" means every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual that provides personal wireless service over personal wireless service facilities.

"Rights-of-way" means land acquired or dedicated for public roads and streets, as further defined in 15.02.020, but does not include (a) land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; (b) structures, including poles and conduits, located within the right-of-way; or (c) federally granted railroad rights-of-way acquired under 43 USC, Section 912, and related provisions of federal law, that are not open for motor vehicle use.

"Right-of-way use permit" means the authorization by which the city grants permission to a service provider to enter and use the right-of-way at a specific location for the purpose of installing, maintaining, repairing, or removing identified facilities.

"Screening" means a continuous fence and/or evergreen landscaped planting that conceals the property it encloses.

"Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating or managing any facilities used to provide and providing telecommunications or cable television services for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city or town.

"State" means the state of Washington.

"Surplus space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Washington Utilities and Transportation Commission, to allow its use by a telecommunications carrier for a pole attachment.

"Secondary use" means a use subordinate to the principle use of the property, such as commercial, residential, utilities, etc.

"Security barrier" means a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

"Stealth" means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within and disguised by an existing or proposed structure,

"Telecommunications carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of providing telecommunications services to locations outside the city.

"Telecommunications service" means transmission of information, except cable television service, by wire, radio, optical cable, electromagnetic, or other similar means, for hire, sale, or resale to the general public. For the purposes of definition "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service excludes the over-the air transmission of broadcast television or broadcast radio signals, facilities necessary for governmental purposes. The city shall act on an application within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with condition, or deny the application in accordance with the time frames set forth in YMC Title 16, Administration of Development Permit Regulations, and in accordance with other applicable ordinances.

"Telecommunications service provider" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the city, used or to be used for the purpose of offering telecommunications services, except cable television service, to residents, businesses or other locations within the city.

"Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. "Tower" also includes any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

"Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Washington Utilities and Transportation Commission.

"Utility facilities" means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility or telecommunications services.

"Unlicensed wireless services" means commercial mobile services that operate on public frequencies and do not need an FCC license.

15.29.030 Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
- B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale.
- C. Radar systems for military and civilian communication and navigation.
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster.
- E. Licensed amateur (ham) radio stations.
- F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.
- G. Routine maintenance or repair of a personal wireless service facility and related equipment(excluding structural work or changes in height, type or dimensions of antennas, towers, or buildings); provided, that compliance with the standards of this chapter are maintained.
- H. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a personal wireless service facility until thirty days after the completion of such emergency activity.
- I. A COW or other temporary personal wireless telecommunications facility shall be permitted for a maximum of ninety days in any three hundred sixty-five day period or during an emergency declared by the city.

15.29.035 Modification of Existing Wireless Tower or Base Station.

Pursuant to 47 U.S.C Section 1455(a), any request from an eligible facility for modification of an existing wireless tower or base station, which modification consists of a request for co-location, removal, or replacement of transmission equipment, that does not substantially change the physical dimensions of such tower or base station shall be administratively processed and approved. This section states provisions and procedures applicable to (a) requests for modifications that do not substantially change the physical dimensions of an existing wireless tower or base station, and (b) requests for modifications that substantially change the physical dimensions of an existing wireless tower or base station

A. Definitions. The following terms shall have the following meanings for purposes of this section:

(1) "Tower" is defined as any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

(2) "Base station" is defined as a facility or structure consisting of radio transceivers, antennas, coaxial cable, a regular and backup power supply, and other associated electronics, including a structure that currently supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station, and encompasses such equipment in any technological configuration, including distributed antenna systems and small cells.

(3) A "substantial change in the physical dimensions" occurs if:

(a) the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(b) the mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(c) the mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(d) the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

B. Application. Any eligible facility requesting modification of an existing wireless tower or base station, which modification consists of a request for co-location, removal, or replacement of transmission equipment, shall submit an application, on a form provided by the City, for a modification permit. The application shall include the following:

- (1) The name, address, signature and contact information of the applicant, and identification of relationship to any FCC licensee of the affected facility;
- (2) Site plan or schematic drawing showing the current location and dimensions of the wireless tower and base station, drawn to scale;
- (3) Site plan and schematic drawing, drawn to scale, showing the location and dimensions of the requested modification to the wireless tower and/or base station;
- (4) A computation and description of the proposed modification establishing whether or not such modification constitutes a substantial change in the physical dimensions of the existing facility; and
- (5) Any other information deemed necessary or appropriate by the City to assist in the timely processing of the application.

C. Review of Application – Determination of Substantial Change. Within 45 days of receipt of a complete application for modification, the administrator shall review and issue a written determination as to whether the requested modification constitutes (a) a substantial change to the physical dimensions of an existing wireless tower or base station, or (b) no substantial change to the physical dimensions of an existing wireless tower or base station. The administrator may request additional information from the applicant or any other entity to assist in this determination.

(1) Modification Permit – Finding of No Substantial Change. If the administrator determines that such application establishes that such requested modification does not substantially change the physical dimensions of an existing wireless tower or base station, he shall issue a modification permit. Issuance of such modification permit shall authorize issuance of any necessary and appropriate building permits to accomplish such modification, subject to payment by applicant of applicable permit fees and compliance with applicable permit requirements. Issuance of all required permits shall occur within 90 days after receipt and approval of a complete application for a modification permit. The administrator may impose conditions necessary to achieve compliance with the provisions of this section.

(2) Application – Finding of Substantial Change. If the administrator determines that such application constitutes a substantial change to the physical dimensions of an existing wireless tower or base station, he shall issue a written decision and deliver such decision to the applicant.

Any modification that substantially changes the physical dimensions of an existing wireless tower or base station shall be subject to the applicable permit and application requirements of this chapter.

D. Appeals. The decision of the administrator shall constitute an administrative decision subject to appeal pursuant to Chapter 16.08 YMC.

15.29.040 Site selection criteria.

A. Any applicant proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall evaluate different sites to determine which site will provide the best screening and camouflaging while providing adequate service to satisfy its function in the applicant's local grid system. If the applicant proposes a site that does not provide the best opportunities for screening and camouflaging then the applicant must demonstrate by engineering evidence why the facility cannot be located at the site where it can be best screened and camouflaged and why the antenna must be located at the proposed site. Further, the applicant must demonstrate by engineering evidence that the height requested is the minimum height necessary to fulfill the site's function within the grid system.

B. Applications for necessary permits will only be processed when the applicant demonstrates either that it is an FCC-licensed telecommunications provider or that it has agreements with an FCC-licensed telecommunications provider for use or lease of the support structure.

C. Low power mobile radio service facilities shall be located and designed to minimize any significant adverse impact on residential property values. Facilities shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

D. In all zones, location and design of facilities shall consider the impact of the facility on the surrounding neighborhood and the visual impact within the zone district. In all zones, towers shall be significantly screened by placing them in trees to the extent that it does not result in significant signal degradation.

15.29.045 ~~Environmentally sensitive locations~~ Protected areas.

~~Environmentally sensitive~~ Protected areas are: (a) established federal, state or local historic districts or historic district overlay zones; (b) proposed federal, state or local historic districts or historic district overlay zones filed for record with the federal, state or local agency with jurisdiction (hereafter "pending" historic district or overlay zones); (c) sites, buildings, structures or objects listed in the National Register of Historic Places; (d) state and local wildlife refuges, and permanently protected archeological sites; and (e) designated areas subject to preservation or protection through recorded conservation easement. Except as provided in 15.29.050, antennas and antenna support facilities are not permitted in or within ~~800~~300 feet of any ~~environmentally sensitive~~ protected area.

15.29.050 Priority of locations.

The order of priorities for locating new personal wireless service facilities shall be as follows:

- A. Co-locate antennas, towers and related structures on existing antennas, towers and facilities in accordance with 15.29.080.
- B. Place antennas and towers on public property as further described in 15.29.060 where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the administrator.
- C. Place antennas, towers and related facilities on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers, in the industrial and commercial zoning districts, where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the administrator.
- D. Place antennas, towers and related facilities on properties in the industrial zoning districts where such antennas, towers and related facilities are sight-screened as approved by the administrator. Antennas, towers and related facilities on properties in the industrial zoning districts, which proposed antennas, towers and/or related facilities are located within 300 feet from residential zoned districts, shall be approved by the administrator, subject to disguise by camouflage or stealth deemed appropriate by the administrator. Antennas, towers and related facilities on properties in the industrial zoning districts, which proposed antennas, towers and related facilities are located within ~~800~~300 feet from ~~an environmentally sensitive protected~~ area require a conditional use permit with camouflage or stealth deemed appropriate.
- E. Place antennas and towers in districts zoned Local Business District (B-2) and Large Commercial Center (LCC), subject to the following conditions:
 1. Antennas, antenna support structures and towers located within the Local Business District (B-2) or Large Commercial Center (LCC) districts shall be placed, if possible, no closer than 300 feet from residential zoned districts ~~and no closer than or within 800~~300 feet of ~~an environmentally sensitive a protected~~ area. An application to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and more than 300 feet from residential zoned districts and more than ~~800~~300 feet ~~from of an environmentally sensitive a protected~~ area may approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth.
 2. An applicant that wishes to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and within 300 feet from residential zoned districts or within ~~800~~300 feet of ~~an environmentally sensitive a protected~~ area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than 300 feet from residential zoned districts or more than ~~800~~300 feet from ~~an environmentally sensitive a protected~~ area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate

location is available. Such antennas, towers and related facilities require a conditional use permit and camouflage or disguise by stealth. Such antennas, towers and related facilities may approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of 15.29.070 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

F. Place antennas and towers in residential zoning districts or within 300 feet of residential zoned districts, other than within the B-2 and LCC zoning districts as provided in subsection E above, subject to the following conditions:

1. An applicant that wishes to locate a new antenna support structure in a residential zone, or within 300 feet of residential zoned districts, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures within a nonresidential zone, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available.
2. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.
3. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.
4. The proposed antenna, tower and antenna support structure is camouflaged or disguised by stealth.

G. Place antennas and towers in or within 800300 feet of an environmentally sensitive a protected area, other than within the B-2 and LCC zoning districts as provided in subsection E above, subject to the following conditions:

1. Antennas and towers facilities proposed to be located in or within 800300 feet of an established or pending federal, state or local historic district or historic district overlay, are facilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places. (See 16 U.S.C. 470w(5); 36 CFR part 60 and 800.).

Applicant shall comply with applicable provisions of the National Environmental Policy Act (NEPA), including but not limited to the Environment Assessment provisions of 47 C.F.R. 1.1307, *et seq.* and comply with any mitigations imposed therein.

2. An applicant that wishes to locate a new antenna support structure in or within ~~800~~300 feet of ~~an environmentally sensitive~~ a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government facility, a private institutional structure, or other appropriate existing structures or site outside and more than ~~800~~300 feet from ~~an environmentally sensitive~~ a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available.

3. Applicants are required to demonstrate: (i) that they have contacted the owners of structures in excess of thirty feet within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals; (ii) have asked for permission to install the antenna on those structures; and (iii) were denied permission of use for reasons other than the ability or refusal of the applicant to pay a market rate for use of the alternative structures.

4. The information submitted by the applicant shall include (i) a map of the area to be served by the tower or antenna, (ii) its relationship to other cell sites in the applicant's network, and (iii) an evaluation of existing buildings taller than 30 feet, within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals.

5. Antennas and towers facilities proposed to be located in an established or pending federal, state or local historic district, historic district overlay, or other ~~environmentally sensitive~~protected area, are subject to review by the district's or organization's governing body or assigned committee regarding recommendations for camouflage, stealth, and landscaped sight-screening elements.

6.. The proposed antenna, tower and antenna support structure is disguised by stealth structure or is camouflaged.

15.29.060 Siting priority on public property.

A. Where public property is sought to be utilized by an applicant, priority for the use of government-owned land for wireless antennas and towers will be given to the following entities in descending order:

1. City of Yakima, except that any facilities proposed for location within the Airport Safety Overlay (ASO) are further subject to the limitations and requirements of Chapter 15.30 YMC;

2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Yakima and private entities with a public safety agreement with the city of Yakima;
3. Other governmental entities, for uses that are not related to public safety; and
4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.

B. Minimum Requirements. The placement of personal wireless service facilities on city-owned property is subject to the discretion and approval of the city and must comply with the following requirements:

1. The facilities will not interfere with the purpose for which the city-owned property is intended;
2. The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition required by city;
3. The applicant shall obtain adequate liability insurance naming the city as loss payee and commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
5. The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice the city may require the applicant to remove the facilities at the applicant's expense. Telecommunication facilities serving essential government services and other government agencies shall have priority over other users.
6. The applicant must reimburse the city for any related costs that the city incurs because of the presence of the applicant's facilities;
7. The applicant must obtain all necessary land use approvals; and
8. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested.

C. **Special Requirements for Parks.** The use of city-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:

1. The city parks commission has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation has been forwarded to the city council for consideration and approval;
2. In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;
3. Before personal wireless service facilities may be located in public parks, visual impacts and disruption of normal public use shall be mitigated;
4. Personal wireless service facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
5. Personal wireless service facilities may be located in park maintenance facilities.

15.29.070 Required submittals and testing.

Required submittals include:

A. If the applicant is not the landowner, the landowner(s) shall be considered co-applicant(s) and shall sign the application. If any applicant is a corporation, trust, association, or other organized group or legal entity, it shall provide the date of such creation, and, if a foreign corporation, a copy of the certificate of authority filed with the state of Washington, Secretary of State's Office.

B. An affidavit signed by the applicant, landowner (co-applicant), and the antenna support structure owners, if different, indicating that:

1. They agree to dismantle and remove the WCF/antenna support structure and restore the site to its approximate original pre-structure condition within the applicable time limits set forth in YMC 15.29.120 following receipt of a letter from the city indicting that the facility is deemed abandoned or in violation of this chapter; and,
2. In the case of freestanding /antenna support structures, they consent to co-location, at reasonable terms, of as many antennas and related equipment as feasible, including those of other communication providers, on the applicant's structure/site.

C. Complete application for conditional use permit, including State Environmental Policy Act (SEPA) checklist.

D. A balloon test and photo-simulation as described in subsection F below are required for any proposed antenna tower in or within 800300 feet of an environmentally sensitive a protected -area. The balloon test shall be conducted prior to the hearing on the permit application. The purpose of the balloon test is to enable the applicant, abutting and neighboring property owners, and the city to better understand the height and visual impact of the proposed tower and antenna array and to provide useful evidence for consideration before the hearing examiner on the permit application. A balloon test is also required when an application for modification proposes a substantial change to the height of an existing wireless facility. Advance notice of the date and time of the balloon test shall be provided to owners of record of property within 800300 feet of the balloon test site. Such notice shall be given in accordance with the provisions of Chapter 16.05 YMC, and may be combined with notice of application. City will also post notice at a location or locations deemed appropriate by the city within 800300 feet of the balloon test, and will provide notice to the governing body of any affected historic district association or organization. Additionally, and without limitation, the city may use any other means deemed advisable to provide advance notice to the public.

E. Other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the information required by this chapter in addition to any additional requirements of YMC Title 15, and other applicable ordinances;

F. A photo-simulation of the proposed facility from affected residential properties and public rights-of-way at varying distances must be provided. Where a balloon test is required for proposed facilities in or within 800300 feet of an environmentally sensitive a protected -area, then photos of the balloon test from six locations located approximately three hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower shall be submitted within two weeks after the commencement of the balloon test; ~~For balloon tests and/or photo simulations for proposed towers sites in or within 800 feet of an environmentally sensitive area, in addition to the photos within 300 feet as required above, photos of the balloon test from six locations located approximately eight hundred feet from the base of the proposed tower and spaced evenly in a circumference around the proposed tower shall be submitted;~~

G. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed materials used to construct and color(s) of the facility;

H. A signed statement indicating that (1) the applicant and landowner agree they will allow co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location, subject to good faith negotiation of compensation according to prevailing market rates, and (2) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;

I. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC

environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment;

J. A site plan clearly indicating the location, type and height of the proposed tower or antenna support structure and antenna, accessory buildings, fencing, landscaping, topographic contours of the site at two-foot intervals, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower; and all other items required in this chapter;

K. A current map and aerial showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant, or sites acquired by applicant for the benefit of, or on behalf of, any other personal wireless service facility operator, and those proposed by the applicant that are close enough to impact service within the city;

L. Legal description of the parcel, if applicable;

M. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

N. A landscape and irrigation plan showing specific landscape materials and irrigation system;

O. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

P. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA Standards and all other applicable federal, state and local laws and regulations;

Q. A statement by the applicant that the design of the tower will accommodate co-location of additional antennas for future users;

R. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;

S. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC; and

T. At the time of site selection, the applicant shall demonstrate how the proposed site fits into its overall network within the city.

U. A map showing the location of any properties that are within 800300 feet of the proposed site that are environmentally sensitive/protected areas.

15.29.080 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

A. Proposed facilities may, and are encouraged to, co-locate onto existing towers. Such co-location is permitted by right and a new or additional conditional use permit approval is not required, unless additional height or dimensions are proposed that constitute a substantial change to the tower and/or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, except that co-location shall be accomplished in a manner consistent with the policy, site criteria, and landscape/screening/camouflaging provisions contained in this chapter.

The applicant must submit detailed plans to the planning department to determine if the conditional use can be waived and an administrative permit issued. No building permit will be issued until approval is granted.

C. The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.

D. To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennas for more than one wireless service provider, unless the applicant demonstrates why such design is not feasible for technical or physical reasons; or for aesthetic reasons necessary to preserve camouflaging or stealth structures in residential or environmentally sensitive/protected areas.

E. Unless co-location is not feasible: (i) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the providers personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement; and (ii) the site plan for towers must propose space for at least one comparable provider.

F. All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the city may require a third party technical study, at the expense of the applicant to resolve the dispute.

G. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.

15.29.090 Design criteria.

A. As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. All facilities shall comply with the following standards:

1. **Setback.** A tower's setback shall be measured from the base of the tower to the property line of the parcel on which it is located. In residential zones or where a proposed tower is on property abutting a residential use, towers shall be set back from all property lines a distance equal to one hundred percent of tower height as measured from ground level. In all other zones, or where a proposed tower site does not adjoin an existing residential use, towers shall be set back a minimum of thirty feet. When making a decision on a variance application to reduce setbacks, the hearing examiner shall consider the following:

- a. Impact on adjacent properties, including viewsheds, shadowing, visual dominance of the tower and base structures as seen from streets and rights-of-way, and historic integrity of the neighborhood;
- b. Alternative sites for personal wireless facilities; and
- c. The extent to which screening and camouflaging will mitigate the effects of the personal wireless facilities.

2. **Right-of-Way Setback Exception.** The setback requirement is waived if the antenna and antenna support structure are located in the city right-of-way, provided the antenna is attached to an existing utility pole and does not substantially increase the height of the utility pole and/or extend above the utility pole by an amount determined to be a substantial modification pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and applicable interpretations of the Federal Communications Commission . Wireless facilities attached to utility poles are permitted in all zones subject to approval by the city in its sole discretion, and pursuant to license or franchise agreements with the city.

3. **Tower and Antenna Height.** The applicant shall have the burden of demonstrating that the tower and antenna is the minimum height required to meet the proven communications need. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount together with antenna shall exceed sixty feet in all single-family, multifamily residential, Downtown Commercial, and Professional Office zones or one hundred ten feet in other zones.

4. **Tower Separation.** In no case shall towers be located closer than five hundred feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity. In residential districts and environmentally sensitive/protected areas, no tower shall be located closer than 1,500 feet from another tower whether it is owned or utilized by applicant or another provider, unless the city designates areas where multiple towers can be located in closer proximity.

5. **Color.** Towers shall have a dark color such as forest green, charcoal or dark brown, depending on the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. Colors shall be maintained and repainted as necessary to maintain original color, to repair fading through weathering, and to prevent flaking.

6. Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required or allowed by the FCC or the FAA. Should lighting be required, in cases where there are residents located within a distance that is three hundred percent of the height of the tower, then dual mode lighting shall be requested from the FAA.

7. Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip.

8. Landscaping.

a. Landscaping. Landscaping, as described herein, shall be required to buffer personal wireless service facilities to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other on-site features instead of landscaping, if they achieve the same degree of screening as the required landscaping. Wire fencing may be allowed if it is fully screened. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

b. Buffers. The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping requirements.

i. A row of evergreen trees a minimum of six feet tall at planting a maximum of six feet apart shall be planted around the perimeter of the fence.

ii. A continuous hedge at least thirty-six inches high at planting capable of growing to at least forty-eight inches in height within eighteen months shall be planted in front of the tree line referenced above.

iii. An automatic irrigation system providing irrigation as needed according to plant type, season and maturity of plantings.

iv. To guarantee required landscaping the applicant shall provide the city with a two-year landscape maintenance guarantee ~~in accordance with MMC 18.78.060.~~

v.. In the event that landscaping is not maintained at the required level after the two-year landscape guarantee period, the city after giving thirty days' advance written

notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

9. Screening. Screening, camouflaging or otherwise integrating a telecommunications facility into existing features on the site in order to make the facility as visually unobtrusive as possible, shall take priority over increased height to accommodate co-location. A personal wireless telecommunications facility shall be integrated through location and design to blend in with the existing "character" of the site so as to be visually unobtrusive or screened. To be considered screened the tower or mount shall be placed amongst and adjacent to (within twenty feet) of the drip line of three or more evergreen trees at least seventy-five percent of the height of the facility. To ensure the screening trees are preserved the following note shall be recorded on the property title:

All trees within 50 feet of the telecommunications facility located on this property, which serve to screen the telecommunications facility shall be retained for the life of the telecommunications facility. Screening trees may only be removed if deemed diseased or dangerous by a certified arborist. Before any trees can be removed a report from the certified arborist shall be submitted to the City for review and approval. Unless approved by the City, only that portion of the tree required to remove the hazard can be removed.

If located in or within 300 feet of a residential zoning district or in or within ~~800~~300 feet of established or pending federal, state or local historic district overlay zones, structures, sites or objects listed in the National Register of Historic Places, state and local wildlife refuges, and permanently protected archeological sites, camouflaging shall be accomplished by designing the facility to look like surrounding evergreen trees or other customary structures in the area.

10. Required Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the existing environment.

11. Antenna Criteria. Antenna on or above a structure shall be subject to the following:

- a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.
- b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than sixteen feet above the roofline, including parapets.

- c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
- e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color. Materials shall be brick, split face block, horizontal siding, or similar high quality durable materials common to residential or commercial buildings.
- f. The antenna and any accessory buildings must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
- g. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the city, in the city's sole discretion.
- h. On buildings thirty feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:
- i. The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - ii. Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
 - iii. No portion of the antenna may exceed sixteen feet above the height of the existing building.
- i. For antenna attached to the roof or sides of a building at least thirty feet in height, an existing tower, a water tank, or a similar structure the antenna must be either: An omnidirectional or whip antenna no more than seven inches in diameter and extending no more than sixteen feet above the structure to which they are attached; or

A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than ten feet.

If the antenna is placed on the roof or above the top of a building, it shall provide a minimum setback equal to the height of the panel antenna from the rooftop edge.

Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than sixteen feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of one hundred miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that matches the field or trim color of the structure on which they are mounted.

j. **Guy Wires Restricted.** No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

k. If a proposed antenna is located on a building or a lot subject to a land use permit, approval is required prior to the issuance of a building permit.

12. Equipment Structures

a. Ground level equipment, buildings, and the tower base shall be screened from public view and from the view of abutting properties. The standards for the equipment buildings are as follows:

b. The maximum floor area is three hundred square feet and the maximum height is twelve feet.

c. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than two hundred fifty feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures.

d. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances.

e. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures, including building form, materials and color.

f. Roof-mounted. Equipment buildings mounted on a roof shall be designed to match and be integrated into the exterior design and materials of the building. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent of the total roof area of the building the facility is mounted on, which may vary in the city's sole discretion if co-location and an adequate screening structure is used.

13. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense.

14. Building Codes – Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty days, the city may remove the tower at the owner's expense.

15. Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of site plans stamped by a professional engineer that demonstrates compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

No personal wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC RF Emission standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location.

16. Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

15.29.100 Permits required.

In addition to the other provisions of this chapter the following permits are required unless otherwise stated:

A. The following, which are subject to administrative review, approval and permit:

1. Modifications to eligible existing facilities pursuant to 15.29.035 and 15.29.080 that do not constitute a substantial change; modifications that constitute a substantial change require a variance;
2. Antennas, towers and related facilities located within or upon government-owned property or structures where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
3. Antennas, towers and related facilities located on appropriate rights-of-way and existing structures, such as buildings, towers, and water towers, in industrial and commercial zoning districts where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
4. Antennas, towers and related facilities located within industrial zones of the city, including proposed locations within 300 feet of residential zoned districts, where such antennas, towers and related facilities are disguised by camouflage and/or stealth measures approved by the city;
5. Antennas, towers and related facilities located within the Local Business District (B-2) and Large Convenience Center (LCC) zoning districts where such proposed site is (a) more than 300 feet from residentially zoned districts and more than ~~800~~300 feet from ~~an environmentally sensitive~~ a protected area, and (b) such structures are camouflaged and/or disguised by stealth measures approved by the city.

An applicant that wishes to locate a new antenna, antenna support structure or tower within the B-2 or LCC districts, and within 300 feet from residential zoned districts or within 300 feet of a protected area, shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a site, private institutional structure, or other appropriate existing structures more than 300 feet from residential zoned districts or more than 300 feet from a protected area, and that due to valid considerations including physical constraints, and technological feasibility, no more appropriate location is available. Such antennas, towers and

related facilities may approved by the administrator, subject to the administrator's approval of camouflage or disguise by stealth. Such proposed structures are also subject to the balloon test and/or photo-simulation requirements of 15.29.070 in order to assist the administrator in determining appropriate camouflage and/or stealth requirements.

B. Except as set forth in subsection A above, a conditional use permit is required for all proposed antennas, towers and related facilities.

C. Procedures governing variances are set forth in Chapter 15.21 YMC; provided, however, that the criteria for variance approval shall be governed by the following provisions. A variance from the height or area limit that constitutes a substantial change may be granted if the applicant can show by evidence that the additional height is necessary to provide adequate service to the residents of the city and no other alternative is available. When granting a variance the examiner shall require that a significant portion of the tower and related facilities be screened by existing evergreen trees or existing structures.

1. The purpose of this subsection is to provide a means of increasing the maximum height of tower and antenna in specific instances where the strict application of those limits would deprive a tower or antenna operator from achieving the minimum height required to meet the proven communications need.
2. The examiner shall have the authority to grant a variance from the maximum height allowed for tower or antenna when, in his/her opinion, the conditions as set forth in subsection (3) herein have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this chapter.
3. Before a height variance can be granted, it shall be shown that the applicant demonstrates all of the following:
 - a. That there is evidence that additional height is required to provide adequate service to the residents of the city and that no other alternative is available;
 - b. That there are special circumstances applicable to the subject property such as shape, topography, location, or surroundings that prevent the operator from achieving the minimum height required to meet the proven communications need;
 - c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity;
 - d. That any visual impacts will be mitigated to the greatest extent possible using camouflage or screening, including but not limited to strategic placement next to existing

buildings or vegetation or incorporation with architectural features of existing buildings or structures;

e. That the location of the tower and antenna has been chosen so as to minimize the visibility of the facility from residentially zoned land and to minimize the obstruction of scenic views from public properties; and

f. That the variance is the minimum necessary to grant relief to the applicant.

4. The applicant has the burden of proving that the proposed variance meets all of the criteria in subsection (B)(3) of this section, Decision Criteria.

5. The examiner may approve an application for a variance with additional requirements above those specified in this title or require modification of the proposal to comply with specified requirements or local conditions.

6. The examiner shall deny a variance if the proposal does not meet or cannot be conditioned or modified to meet subsection (B)(3) of this section,

a. Project permit review procedures are specified in YMC Title 16, Administration of Development Permit Regulations. The following table specifies the permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

Permit Table*

<u>Type of Use</u>	Permit Required
Co-location (No Substantial Change)	Administrative Permit
Co-location (Substantial Change)	Variance
New Tower (City-owned Property)	Administrative Permit/Lease
New Tower (Public Property)	Administrative Permit (with approval of camouflage/stealth)
New antenna (existing structures, industrial	Administrative Permit (with approval

and commercial zoning districts)	of camouflage/stealth)
New Tower (industrial zoning district, more than 300 feet from residential zone and more than 800 300 feet from environmentally sensitive protected area)	Administrative Permit (with approval of sight-screening)
New Tower (industrial zoning district, within 300 feet of residential zone)	Administrative Permit (with approval of camouflage/stealth)
New Tower (industrial zoning district, within 800 300 feet of environmentally sensitive protected area)	Conditional Use Permit
New Tower (B-2 or LCC zoning district, more than 300 feet from residential zone and more than 800 300 feet from environmentally sensitive protected area)	Administrative Permit (with approval of camouflage/stealth)
New Tower (B-2 or LCC zoning district, within 300 feet of residential zone or within 800 300 feet of environmentally sensitive protected area)	Conditional Use Permit <u>Administrative Permit (with approval of camouflage/stealth)</u>
New Tower (within 300 feet of residential zoning district, <u>not within B-1 or LCC district</u>)	Conditional Use Permit
New Tower (within 800 300 feet of environmentally sensitive protected area <u>not within B-2 or LCC district</u>)	Conditional Use Permit

* Applicable permits include building permits and other permits required for installation.

15.29.110 Inspection requirements.

Within 60 days of any required safety inspection performed in accordance with EIA and FCC standards, the facility operator shall file a copy of the report with the city. Each year after the facility becomes operational the facility operator shall file with the city a copy of maintenance reports for the prior twelve months. The applicant shall provide a financial guarantee in the form of a bond or other financial instrument acceptable to the city in an amount sufficient to reimburse all costs associated with facility removal should it be necessary.

15.29.120 Non-use/abandonment.

A. Abandonment. No less than thirty days prior to the date that a personal wireless service provider plans to abandon or discontinue operation of a facility, the provider must notify the city of Yakima by certified U.S. mail of the proposed date of abandonment or discontinuation of operation. In the event that a licensed carrier fails to give notice, the facility shall be considered abandoned upon the city's discovery of discontinuation of operation. Upon such abandonment, the provider shall have sixty days or additional period of time determined in the reasonable discretion of the city within which to:

1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
2. In the event that abandonment as defined in this chapter occurs due to relocation of an antenna at a lower point on the antenna support structure, reduction in the effective radiated power of the antenna or reduction in the number of transmissions from the antennas, the operator of the tower shall have six months from the date of effective abandonment to co-locate another service on the tower. If another service provider is not added to the tower, then the operator shall promptly dismantle and remove the portion of the tower that exceeds the minimum height required to function satisfactorily. Notwithstanding the foregoing, changes which are made to personal wireless facilities which do not diminish their essential role in providing a total system shall not constitute abandonment. However, in the event that there is a physical reduction in height of substantially all of the provider's towers in the city or surrounding area then all of the towers within the city shall similarly be reduced in height.
3. Dismantle and remove facility. If the tower, antenna, foundation, and facility are not removed within the sixty-day time period or additional period of time allowed by the city, the city may remove such tower, antenna, foundation, and related facility at the provider's expense. If there are two or more providers co-locating on a facility, except as provided for in the paragraph above, this provision shall not become effective until all providers cease using the facility.

At the earlier of sixty days from the date of abandonment without reactivating or upon completion of dismantling and removal, city approval for the facility shall automatically expire.

15.29.130 Third party review.

Personal wireless service providers use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of their services and low power mobile radio service facilities, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, a third party expert may need to review the technical data submitted by a provider. The city may require a technical review as part of a permitting process. The costs of the technical review shall be borne by the provider.

The selection of the third party expert may be by mutual agreement between the provider and the city, or, at the discretion of the city, with a provision for the provider and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to address interference and public safety issues and be a site-specific review of technical aspects of the facilities or a review of the providers' methodology and equipment used and not a subjective review of the site that was selected by a provider. Based on the results of the expert review, the city may require changes to the provider's application. The expert review shall address the following:

- A. The accuracy and completeness of submissions;
- B. The applicability of analysis techniques and methodologies;
- C. The validity of conclusions reached; and
- D. Any specific technical issues designated by the city.

15.29.140 Conditional use permits – Procedures – Conditions for granting.

A. Application. An application for a conditional use permit under this chapter shall be submitted to the director of the city's community development department who shall review such application for completeness and compliance with filing requirements under this chapter and applicable codes of the city, in accordance with the provisions and procedures of YMC 1.43.090 and Title 16 YMC. Prior to issuing a determination of completeness, the director shall have authority to request additional information and reports from the applicant, including but not limited to third party review in accordance with YMC 15.29.130 and reports, surveys and tests as provided in YMC 15.29.070, when the director, in his or her sole discretion, deems such additional information necessary or appropriate to make the application complete, to address mitigation measures identified in SEPA, NEPA or other environmental reviews, to address issues of site screening or other measures to mitigate impacts upon the surrounding neighborhood, or to address any other impact to the life, health, safety or persons, or quiet enjoyment of property, identified by the director as likely, with reasonable probability, to result from the proposed project.

Upon the director's determination that the application is complete and in compliance with filing requirements of this chapter, the director, in coordination with the hearing examiner, shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with the provisions of Title 16 YMC.

B. Hearing Examiner. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

- (1) Before any conditional use may be granted, it shall be shown that:

(a) The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;

(b) The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;

(c) The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;

(d) The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan;

(e) All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located.

(2) The conditions may:

(a) Increase requirements in the standards, criteria or policies established by this title;

(b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

(c) Require structural features or equipment essential to serve the same purpose set forth above;

(d) Impose conditions similar to those set forth in subsections (2)(b) and (2)(c) of this section as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use or otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

(e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

(f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

- (g) Require the posting of construction and maintenance financial security sufficient to secure to the city one hundred fifty percent of the estimated cost of construction and/or installation and fifteen percent maintenance of required improvements.

15.29.150 Conditional use permits – Effect of hearing examiner decision.

The decision of the hearing examiner on a conditional use permit shall be final and conclusive with right of appeal to the city council in accordance with YMC 16.08.030.

15.29.160 Application form.

The director of the city's community development department may prescribe the form in which applications are made for a conditional use permit and other applications authorized pursuant to this chapter. The director may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

15.29.170 Filing fees.

The application for a conditional use permit shall be accompanied by a filing fee in the amount of \$.

15.29.180 Notice of hearing – Conditional use permits.

Notice of all public hearings shall be given and prepared as required by Chapter 16.05 YMC.

15.29.190 Reapplication.

Upon final action as set forth in this chapter in denying an application for a conditional use permit, the city shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

15.29.200 Transfer of ownership.

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted.

15.29.210 Vacation of permits.

A. Any conditional use permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exist.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the community development department with the city.

15.29.220 Violation – Penalty.

Compliance with the requirements of this code shall be mandatory. Any violation of the provisions of this chapter shall be a misdemeanor subject to the penalties and remedies established in YMC 6.02.050. Additionally, any violation of the provisions of this chapter, and any installation and/or operation of any structure in violation of the provisions of this chapter, shall be deemed a public nuisance and violation subject to penalties and remedies available under state law and city codes. The enforcement actions authorized under this code shall be supplemental to those general penalties and remedies of Chapter 6.02 YMC and the public nuisance penalties and remedies available under state law and city codes.

DRAFT

**ZONING TEXT AMENDMENT –
CHAPTER 15.29 WIRELESS COMMUNICATION FACILITIES
TXT#002-13, SEPA#011-13**

EXHIBIT LIST

CHAPTER C

Public Comments

[illegible]



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July 17, 2013

VIA EMAIL & U.S. MAIL

Steve Osguthorpe, Community Development Manager
Department of Community Development
City of Yakima
129 North 2nd Street
Yakima, Washington 98901

RECEIVED
JUL 19 2013
CITY OF YAKIMA
PLANNING DIV.

Re: Proposed Wireless Communications Facilities Ordinance
Chapter 15.29 of the Urban Area Zoning Ordinance
Verizon Wireless - Written Comments

Dear Mr. Osguthorpe:

This firm represents Verizon Wireless with respect to the above-referenced Proposed Wireless Communications Facilities Ordinance (the "Proposed Ordinance"). We appreciate the opportunity to submit comment on the Proposed Ordinance and look forward to discussing these issues further with the City during the public process.

INTRODUCTION

We understand the City's desire to adopt new regulations for the siting of wireless communication facilities given that the City does not currently have any such regulations. As noted in the purpose section of the Proposed Ordinance, it is important for the City to adopt regulations that balance the need to promote quick, effective and efficient wireless communication services throughout the City with the desire to minimize the potential adverse impacts of wireless communication facilities on the community.¹ The need to strike the right balance is even more critical today given the increasing demands for wireless communication services both in quantity and quality throughout the City.

While the Proposed Ordinance provides a good framework for addressing the various issues inherent in siting wireless communication facilities, we believe it does not strike the right balance and will undermine the objective of facilitating the development of a wireless communications infrastructure sufficient to serve the City's wireless needs. Although the Proposed Ordinance encourages the use of existing towers, it imposes many of the same rigorous requirements on collocation proposals that are typically reserved for new towers and does not

¹ Section 15.29.010(A)(1).

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adequately promote the use of existing buildings, utility poles and other structures for collocation opportunities. Several standards for new towers are so restrictive, subjective and onerous that it will make it extremely time- consuming and difficult to site any new towers, and in some areas may effectively preclude carriers from providing necessary coverage. The Proposed Ordinance should provide a separate process and standards for new small cell technology which includes substantially smaller antennas and equipment cabinets for certain areas that will significantly reduce the visual impacts, noise and need for additional equipment space. Some of the proposed provisions are overly broad and ambiguous, and need to be clarified to ensure that the standards are sufficiently objective and clear for the City regulators, the providers and the community. Finally, the Proposed Ordinance is inconsistent with various federal laws that govern wireless communication facilities.

We identified our specific concerns with the Proposed Ordinance below and recommended proposed changes where appropriate. Given that these written comments are part of the beginning of this public process for the Proposed Ordinance, some comments are more general in nature.

SPECIFIC COMMENTS

1. The requirements for collocating antennas on existing structures are too rigorous and restrictive.

Although the Proposed Ordinance aims to encourage the use of existing towers, buildings and other structures, as opposed to constructing new towers, it includes a number of provisions that will undermine this goal by imposing overly rigorous and restrictive requirements on these collocation proposals. There are two primary problems.

First, the Proposed Ordinance imposes many of the same rigorous requirements on collocation proposals that are typically reserved for new towers. For example, the Proposed Ordinance imposes the following requirements on all proposals to site antennas on existing structures: (1) demonstrate that the proposed site is the best site for screening and camouflaging opportunities, and explain why the antenna must be located at the proposed site;² (2) provide multiple photo simulations of the antenna to address the impacts on surrounding properties and the public rights-of-way;³ and (3) demonstrate that the height of the antennas is the minimum height necessary.⁴ These are only a few examples. If the City truly wants to encourage the collocation of antennas on existing structures, it must streamline the process for these proposals and not impose the same type of rigorous standards as new towers. Otherwise, carriers will not have sufficient incentive to pursue these collocation opportunities if a mere antenna proposal triggers many of the same requirements as a new tower.

Second, the collocation provisions in the Proposed Ordinance are too narrow and specific to collocation proposals on existing towers. Although the Proposed Ordinance makes passing

² Section 15.29.040(A).

³ Section 15.29.070(F).

⁴ Sections 15.29.040(a) and 15.29.090(B)(3).

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reference to the desire to encourage locating antennas on all types of existing structures, many of the substantive provisions reference only collocation on existing towers. For example, Section 15.29.080(A) provides that collocating on "existing towers" is permitted without a conditional use permit approval, but it says nothing about other existing structures, such as buildings, water towers, utility poles, etc. Given the limited number of towers and available space on existing towers, these other structures are providing the bulk of the collocation opportunities. As a result, most cities and counties encourage the use of all existing structures, including buildings, water towers, utility poles, etc., for collocation opportunities and streamline these proposals to provide sufficient incentives for the carriers to pursue these opportunities. The Proposed Ordinance should be revised to sufficiently promote the use of all existing structures.

2. The Proposed Ordinance does not adequately encourage the use of public rights-of-way, especially existing utility poles, street lights, etc.

Most cities and counties strongly encourage the collocation of antennas on existing utility poles, street lights, etc., since these structures already impose many of the same impacts as wireless communication facilities and provide a source of revenue for the local government. Most jurisdictions significantly streamline these types of proposals, many requiring mere building permits.

In contrast, the Proposed Ordinance imposes additional requirements on the use of public property, which appears to include public rights-of-way. All proposals on "city owned property" must demonstrate that "The facilities will have no significant adverse impact on surrounding private property, or any significant adverse impact is mitigated by screening, camouflage or other condition."⁵ These requirements apply to proposals on existing structures, including utility poles, street lights, etc., and are in addition to the typical requirements. Therefore, the Proposed Ordinance provides a disincentive for using public rights-of-way.⁶ These additional requirements should be removed, or at a minimum, excluded from application to existing utility poles, street lights, etc., since many of the impacts already exist at these locations.

Finally, the siting priority on public property section should expressly provide that wireless facilities are permitted on utility poles and street lights in the right-of-way.⁷ Although this type of language is included in the design criteria section,⁸ it would be more appropriate to include this statement in the section that specifically addresses the public property where wireless facilities can be located.

3. The standards for new towers are too restrictive, subjective and onerous.

While Verizon Wireless understands the City's desire to discourage new towers, there will be some instances where a new tower is the only means for providing wireless service to a particular area. Several standards for new towers are so restrictive and onerous that it will be too

⁵ Section 15.29.060(B).

⁶ The sole exception is the waiver of the setback requirement under Section 15.29.090(B)(2).

⁷ Section 15.29.060.

⁸ Section 15.29.090(B)(2), which is the Right-of-Way Setback Exception section of the Design Criteria, provides that "Wireless facilities attached to utility poles are permitted in all zones."

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difficult to site new towers, and in some areas may effectively preclude carriers from providing necessary coverage.

New towers are required to "be significantly screened by placing them in trees to the extent it does not result in significant signal degradation" and must be placed amongst or adjacent to "the drip line of three or more trees at least seventy five percent of the height of the facility."⁹ These requirements should be removed because they will significantly limit the number of available sites since many available sites, especially those in the preferred commercial and industrial zones, are not surrounded by trees of that size. Additionally, this requirement will result in taller towers to avoid the interference of the trees.

Section 15.29.040 requires providers to evaluate "different sites to determine which site will provide the best screening and camouflaging," and if the best site is not selected, demonstrate why the facility must be sited at the proposed site.¹⁰ This requirement is too ambiguous because it is unclear how to determine the "best site for screening and camouflaging" since there are no standards. In our experience, these types of "best site" requirements are highly problematic because no site is acceptable to all property owners in the surrounding area. Neighbors in closer proximity to one site will always prefer an alternative site that is further away. This dynamic leads to competing sites in which the wireless carrier is caught in the middle and results in significant delays to the process.

The standards for demonstrating that a new tower must be located in the residential areas are extremely onerous. It requires a demonstration that the tower cannot be located in any nonresidential zones based solely on physical constraints and technological feasibility (economic feasibility is specifically excluded from consideration), and the provider must contact every owner of a 30-ft plus buildings within a quarter mile of the site and demonstrate they refused to lease space.¹¹ Since economic considerations have been intentionally omitted, presumably a building owner's demand of an exorbitant amount of rent would not be a legitimate basis for eliminating that alternative. These requirements are unprecedented. At a minimum, the requirement to contact building owners within a quarter mile must be removed.

Finally, the conditional use permit approval criteria that apply to new towers appear to be the most subjective and rigorous standards of any proposed development in the City. Section 15.29.140(B)(1) requires a demonstration that the tower will: (1) not be "injurious" to the property, improvements in the vicinity or the district in which it is located; (2) be compatible generally with the surrounding land uses; and (3) all measures have been taken to minimize possible adverse impacts. These standards will be extremely difficult to satisfy. Since these are the only conditional use permit standards that apply in the City, no other development is subject to such rigorous standards even though other types of development have far greater impacts on the surrounding area. While wireless communication facilities may cause impacts, their impacts are minimal compared to the impacts of larger industrial and commercial developments.

⁹ Sections 15.29.040(D) and 15.29.080(B)(9).

¹⁰ Section 15.29.040(A).

¹¹ Section 15.29.040(C).

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4. The Proposed Ordinance should provide a separate process and standards for new small cell technology.

For years local governments have been pushing the wireless industry to reduce the size and impact of wireless facilities. The wireless industry has begun implementing a new technology called small cells that substantially reduces the size of antennas, equipment cabinets and related equipment. Verizon Wireless is currently in the process of introducing small cells in the Northwest region and working with local jurisdictions to amend their wireless facility standards to account for this new technology. The City should take advantage of this opportunity and address this new technology now as part of the Proposed Ordinance.

Small cells will be used predominately to fill in gaps in areas where there is insufficient capacity to meet the wireless needs of businesses and residents in the surrounding area. The small cells consist of antennas and equipment cabinets that are a fraction of the size of the existing macro facilities. Both the antennas and equipment cabinets will be mounted almost exclusively on existing utility poles, light poles, buildings and other structures. Given the different technology and the fact that small cells will substantially minimize the visual, noise and related impacts, they require a different regulatory approach and standards that significantly streamline the process.

The Proposed Ordinance needs to recognize and encourage this new technology. We propose that the City include a separate section in the Proposed Ordinance that recognizes small cells and provides separate standards for addressing them. We are happy to provide the City more details about the small cell technology in order to develop a more appropriate approach for these types of facilities.

5. The priority of locations sections need to be modified and/or clarified.

There are several provisions in the priority of locations sections that need to be modified and/or clarified.¹² The most significant concern is that it is unclear how the City will implement these priorities since they are not part of the site selection standards and there are no standards for determining when the City will deem higher priority sites unavailable. This ambiguity will create uncertainty, invite opponents to challenge the compliance with these priorities and significantly delay the overall siting process. Since antennas and towers are allowed in all zones, these standards should not be used in a way that complicates the process and review standards.

While it does not appear to be intended, the Proposed Ordinance suggests that new towers are not allowed in the commercial and industrial zones. It provides that the highest priority is to "place antennas and towers on appropriate rights-of-way and existing structures" in the commercial and industrial zone,¹³ but there is no mention of new towers in these zones. This provision should be clarified.

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¹² Sections 15.29.040 through 15.29.060.

¹³ Section 15.29.050(A).

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Classifying residential zones or any area within 800 feet of residential zones as the lowest priority will create problems.¹⁴ The personal use of wireless devices is one of the largest growing segments of the industry and therefore wireless facilities need to be increasingly located in residential areas to provide the required service. As previously explained, the standards for siting a new tower in these areas are extremely difficult. At a minimum, these provisions should not discourage antenna collocation on existing structures in these areas. This is especially necessary for small cells because they are the most efficient and least intrusive way to fill in coverage and capacity gaps in residential areas. Moreover, an 800-foot buffer area is unnecessarily large. The buffer area should be reduced to 400 feet, which is more standard in other jurisdictions.

For publically owned property, the requirement that carriers reimburse for "any related costs that the city incurs because of the presence of the applicant's facility" is too vague and open-ended.¹⁵ This provision is unnecessary and should be deleted because the City already provides for recovery of costs associated with the use of public property in the form of application fees, franchise fees and rent for leases. Additionally, the process for siting in a public park is so extensive and time-consuming since it requires the additional approval of both the City Parks commission and the City Council that it will discourage the use of parks. The City should not make it so difficult to site wireless facilities in parks because they offer unique opportunities for screening trees, open space and buffers from adjacent properties. If the City truly wants to discourage the use of public parks, they should not be listed in the higher priority public sites.

Finally, antennas should not be completely prohibited within 800 feet of historic districts, wildlife refuges or protected archeological sites.¹⁶ The Proposed Ordinance should at least provide for some exceptions if services are required in these areas. Additionally, the 800-foot buffer area should be reduced to the more typical 400 foot standard.

6. The application submittal and testing requirements are too vague and excessive.

There are several problems with the application submittal and testing requirements.¹⁷ As previously explained, the photo simulation requirement should not be imposed on collocation proposals on existing structures.¹⁸ Photo simulations are very expensive and require a great deal of lead time to generate. If carriers want to propose multiple site options, it would be extremely cumbersome and costly to prepare these photo simulations for each option. Additionally, the requirement to take photo simulations from "affected residential properties and public rights-of-way at varying distances" is too vague. The Proposed Ordinance should include more specific and objective standards.

The "other related requests" requirement which allows the City to require "any combination of site plans, surveys, maps, technical reports, or written narratives" is too open-ended and should

¹⁴ Section 15.29.050(C).

¹⁵ Section 15.29.060(B)(6).

¹⁶ Section 15.29.045.

¹⁷ Section 15.29.070.

¹⁸ Section 15.29.070(F).

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not be required for simpler collocation proposals on existing structures.¹⁹ The Proposed Ordinance should include more specific and objective requirements that reasonably relate to the specific proposal.

The requirement to provide a current map and aerial of all current and proposed facilities operated by the applicant in the City and areas close enough to impact services in the City is highly problematic.²⁰ This information is unnecessary for the City to evaluate a proposal for a single site and would be burdensome to produce for every application. More importantly, this information is proprietary and highly confidential. Wireless carriers cannot be required to disclose confidential and proprietary information, especially if it is not relevant to the approval standards.

The provision requiring that abandoned facilities be removed upon the receipt of a notice from the City must account for those instances in which the carrier contests the City's claim.²¹ A carrier cannot be required to remove facilities upon the mere receipt of a notice claiming that they have been abandon or are in violation if the carrier disagrees and wishes to contest the claim.

The collocation section is also problematic.²² The carrier's requirement to consent to future collocation opportunities on a proposed tower must expressly account for technical feasibility, necessary separation of antennas and equipment, and the load bearing capacity of the tower.

7. The design criteria are too vague and excessive.

There are several problems with the design criteria.²³ As previously explained, wireless carriers should not be required to demonstrate that the height of the antennas are the minimum height necessary in all zones and the public right-of-way.²⁴ Antennas proposed on existing structures should not be required to undergo this onerous requirement in any zone or right-of-way. Nor should it be required for new towers proposed in higher priority areas, such as commercial and industrial zones, where there is not the same need to minimize the height of the tower. It is our experience that demonstrating that an antenna is the minimum height necessary is costly, time-consuming and subject to extensive second-guessing.

The landscaping requirements are onerous and it should be clarified so it is clear they only apply to towers.²⁵ Since this provision only exempts flush-mounted antennas and equipment housed in an existing structure from the landscaping requirement, whip antennas and small cell equipment cabinets would be subject to this requirement even though it would be ridiculous to require landscaping in these instances. Even for towers, the landscaping requirements are too onerous

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¹⁹ Section 15.29.070(E)

²⁰ Section 15.29.070(K).

²¹ Section 15.29.070(B).

²² Section 15.29.070(B).

²³ Section 15.29.070.

²⁴ Sections 15.29.040(a) and 15.29.090(B)(3).

²⁵ Section 15.29.080(B)(8).

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since they require a fence, a row of 6-ft evergreen trees, a continuous 36-inch high hedge, and automatic sprinklers.

As previously explained, the screening requirements to place the facilities amongst or adjacent to large trees should be removed because it will significantly limit the available sites, and at a minimum should not apply to antennas.²⁶

Parking should not be required for maintenance workers when the facility is fully automated.²⁷ Requiring parking is unnecessary and results in an additional impact.

The antenna criteria have several problems.²⁸ All antennas must be "camouflaged," which is defined as "disguised, hidden or integrated within the existing structure" or within trees. As previously explained, the use of substantially smaller antennas should be recognized as an acceptable alternative mitigation measure since they will mitigate the impacts greater than the traditional camouflage techniques. The restrictions on roof mounted antennas for building 30 feet or less are too great and will discourage the use of existing structures which often times require use of the roof to provide for sufficient height.

The requirement that equipment be no more than 200 feet from the tower or antenna will create significant problems.²⁹ There will be several instances where the equipment will be required to be more than 200 feet from the antennas. If the antennas are located on a rooftop, often times the equipment is located in the basement more than 200 feet away. It is also unclear if these standards apply only to equipment buildings and shelters, or equipment cabinets as well. This needs to be clarified so these standards do not apply to mere equipment cabinets. It also should be clarified that equipment cabinets qualify as screening for ground level equipment.

8. The application fees and costs must be reasonable.

The Proposed Ordinance allows the City to hire a third party expert to review the application material at the applicant's sole expense without any limit on the costs.³⁰ The Proposed Ordinance should include a cap on these fees and at least require that they be reasonable.

The application fee amount in Section 15.29.170 is blank. It should be filled in with a reasonable application fee.

9. The Proposed Ordinance does not adequately exempt existing wireless communication facilities from the new regulations.

While we understand the City's desire to adopt new regulations governing the siting of future wireless communication facilities, these regulations certainly should not apply to existing facilities that were sited before the regulations go into effect. The Proposed Ordinance attempts

²⁶ Section 15.29.080(B)(9).

²⁷ Section 15.29.080(B)(10).

²⁸ Section 15.29.080(B)(11).

²⁹ Section 15.29.080(B)(12).

³⁰ Section 15.29.130.

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to address this issue by exempting existing facilities in Sections 15.29.010(C) and 15.29.030(G), but these provisions are too ambiguous and appears to impose the new regulations on activities that should be exempt.

Sections 15.29.030(C) and 15.29.030(G) exempt "routine maintenance or repair" of existing facilities, but that term is not defined. The lack of a definition will lead to confusion and disagreement regarding the scope of the exemption. The Proposed Ordinance should include a specific definition for this term.

Although Section 15.29.030(G) provides that the routine maintenance or repair of existing facilities is exempt, it includes the following qualification: "provided, that compliance with the standards of this chapter are maintained." This language is ambiguous and could be interpreted to require routine maintenance and repairs to comply with certain portions of the new regulations, and if so it is unclear what requirements would apply. The routine maintenance and repair of existing facilities should be completely exempt. This qualifying language should be deleted, or at a minimum clarified.

Finally, it appears that the mere replacement of antennas on an existing facility would trigger the new regulations. Section 15.29.030(G) excludes the following from routine maintenance or repair: "structural work or changes in height, type or dimensions of antennas, towers, or buildings." (Emphasis added). Unless the replacement antenna is identical in height, type and dimension it appears it would be subject to the new regulations regardless of the extent of the difference or whether it is larger or smaller. This exclusion should be limited to replacement antennas that are significantly larger or placed significantly higher than the antenna being replaced.

10. The Proposed Ordinance conflicts with federal law.

The Proposed Ordinance runs afoul of several federal regulations. As you know, the Federal Communications Commission ("FCC") adopted what is commonly known as the Shot Clock Order in 2009.³¹ The Shot Clock Order imposes presumptively reasonable time periods for reviewing wireless facility applications, which are 90 days for collocation applications and 150 days for non-collocation applications.³² The Proposed Ordinance does not impose time periods for processing the applications consistent with this requirement.

The Proposed Ordinance conflicts with the Telecommunications Act of 1996 as well. The Telecommunications Act of 1996 provides wireless carriers with important procedural due process protections, including the requirement that "the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality that * * * shall not prohibit or have the effect of prohibiting the provision of personal wireless services."³³ Given many of the overly restrictive, ambiguous and

³¹ FCC Declaratory Ruling FCC 09-099 (November 18, 2009).

³² The City considers wireless facility proposals in the right-of-way collocation applications. See Amendments to Wireless Right-of-Way Agreements, May 12, 2009, Section 6.D.1.

³³ 47 U.S.C. § 332(c)(7)(B)(i)(II).

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extensive standards in the Proposed Ordinance, it could very well have the effect of prohibiting the provision of personal wireless services if the City does not make the necessary revisions.

Finally, the Proposed Ordinance conflicts with Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409 preempts State and local governments from denying the collocation of wireless transmission equipment, including the installation, removal or replacement of such equipment. As previously noted, the Proposed Ordinance imposes many of the same rigorous requirements on collocation proposals that are typically reserved for new towers and does not adequately promote the use of existing buildings, utility poles and other structures for collocation opportunities. The City cannot deny such collocation proposals in a manner inconsistent with Section 6409. Requiring wireless carriers to undergo such extensive requirement clearly violates Section 6409.

CONCLUSION

We appreciate your consideration of our comments and your willingness to seek input from the wireless industry. We truly hope that this public comment period is the start of constructive dialogue between the City and wireless carriers to help improve the Proposed Ordinance. If the City takes these comments seriously and ensures an adequate opportunity to address these issues during the public process, we firmly believe that the City can strike a better balance between providing wireless communication services throughout the City and minimizing potential adverse impacts on the community.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



E. Michael Connors

EMC/df

Cc: Heather Campbell, Verizon Wireless
Peter Mauro, Verizon Wireless
Ed McGah, Verizon Wireless

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July 18, 2013

Steve Osguthorpe
Community Development Manager
City of Yakima
Department of Community Development
129 North 2nd Street
Yakima, WA 98901

RE: Proposed Amendment to Yakima's Zoning Ordinance for Wireless Cell Siting

Dear Mr. Osguthorpe:

At the public hearing on May 21, 2013, the Yakima City Council meeting, the City Council was clear that an ordinance regarding wireless cell siting must be workable for the wireless industry. Unfortunately, the new proposed Chapter 15.29, *Wireless Communication Facilities* ("Proposed Ordinance") does not meet that expectation. The Proposed Ordinance replaces one-page of requirements with twenty-seven, including many provisions that are unnecessary, internally inconsistent, and overly burdensome. The following are a few examples of problematic aspects of the Proposed Ordinance:

- Section 15.29.045 prohibits antennas and antenna support facilities within "800 feet of any established federal, state or local historic districts or historic district overlay zone..." Practically this means that wireless antennas would not be allowed in a significant portion of the downtown Yakima business district and surrounding areas. This is untenable. Further, Section 15.29.045 conflicts with Section 15.29.050(C) which allows antennas "within 800 feet of...established federal, state or local historic district overlay zones" subject to certain conditions.
- Section 15.29.050 sets forth the priority for locating new personal wireless service facilities. Section 15.29.050(C) is the last priority for cell siting and includes the vast majority of the City of Yakima. See attached zoning map. As such, it appears that very few, in any places in the City of Yakima are with the preferred zoning areas. Section 15.29.050(C)(1) also groups together and places at the same level of priority single family residential zones with other zones that happen to be within 800 feet of a historic zone.
- Section 15.29.050(C) requires that a proposed antenna, tower and antenna support structure located in residential zoning districts or within 800 feet of residential zoned districts or "established federal, state or local historic district overlay zones..." which, as discussed above, is the large portions of the City of Yakima, to be

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camouflaged as that term is defined in Section 15.29.020.¹ The camouflage requirements will technically not work everywhere and will not necessarily reduce the visual impact. For example, flagpoles/light poles have very limited space for antennas, thereby reducing the overall coverage, capacity, and colocation opportunity for the site. The result is that carriers will need additional sites to provide the same level of service. In addition, a flagpole, typically 6-8" in diameter, would have to be replaced with a rather large looking flagpole 42" in diameter.

We would appreciate the opportunity to have a more detailed discussion about these and other problematic provisions in the Proposed Ordinance. We will provide more detailed suggested revisions at that time.

Sincerely,

Carol Tagayun
Director, External Affairs – Washington State

cc: Mark Kunkler, Senior Assistant City Attorney
Robert Bass, AT&T External Affairs
Michael Van Eckhardt, AT&T Legal
Ken Lyons, Busch Law Firm PLLC

¹ The definition of "camouflaged" in Section 15.29.020 appears to be inconsistent with Section 15.29.090(B)(9) requirements for screening.

Peters, Jeff

From: Timmerman, Carter <TimmerC@wsdot.wa.gov>
Sent: Wednesday, July 17, 2013 3:35 PM
To: Peters, Jeff
Subject: SEPA #011-13: Wireless Communications 15.29 draft

Hi Jeff,

I just want to follow up on the message I left earlier. The Washington State Department of Transportation (WSDOT), Aviation Division has two recommendations for you regarding the City of Yakima's *Wireless Communications 15.29 draft*.

- Staff may want to consider adding a reference to the City of Yakima's Chapter 15.30 Airport Safety Overlay (ASO). The chapter is intended to protect the airspace around Yakima Air Terminal/ McAllister Field from airspace obstructions and incompatible land uses.
- Staff should revise section 15.29.070 (P) "A letter signed by the applicant stating that the tower will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations." The responsibility for preventing hazardous obstructions to airport airspace rests with state and local governments and the airport operator. The FAA merely provides technical expertise. It doesn't have land use authority or regulations for the compatibility of towers. Simply because the FAA has issued a Determination of No Hazard indicating that it has no objection to a proposed construction does not mean that the proposal is compatible with the airport.

Please feel free to contact me, if you have any questions or concerns.

Respectfully yours,



Washington State Department of Transportation
Aviation Division

"A Steward for Washington's Aviation System"

Carter Timmerman
Aviation Planner / GIS Analyst
Tumwater, WA
360.709.8019

Steve Osguthorpe, AICP

July 9, 2013

Community Development Manager

City of Yakima, Department of Community Development

129 N. 2nd Street

Yakima, WA 98901

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JUL 11 2013	
<input checked="" type="checkbox"/> REC'VD	FAXED <input type="checkbox"/>
<input type="checkbox"/> PAID	FYI <input type="checkbox"/>

RE: Chapter 15.29, Wireless Communication Facilities - Draft

Dear Mr. Osguthorpe,

I would like to register the following comments regarding the proposed cell tower ordinance that will be discussed over the coming weeks. Unfortunately, I will be out of the country during that time, so would like to put my comments on the record at this time.

Overall, I appreciate the work that staff has accomplished in creating this much needed ordinance. My particular interest revolves around protective mechanisms for historic properties and historic districts.

I hold the opinion that cell towers are intrinsically incompatible within residential areas, adjacent to historic properties and adjacent to or within historic districts.

With that in mind, I would like to draw your attention to Section 15.29.045 (9) which states, "except as provided in 15.29.045 (A) antennas and antenna support facilities are not permitted within 800 feet of any established federal, state or local historic districts or historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites."

A variation of this phrasing is repeated in section 15.29.050 (B), however it says, "at least 800 feet from residential zoning districts, or established federal, state or local historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites." The phrase "from residential zoning districts" has been added and the phrase "local historic districts" has been omitted.

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The same inconsistent phrasing has been repeated in 15.29.045 (C) and in 15.29.090 (B, 9). It appears these phrases need to be brought into agreement and I suggest the following change:

"800 feet from residential zoning districts or established federal, state, or local historic districts, proposed historic districts, established residential historic properties, historic district overlay zones, state and local wildlife refuges, and permanently protected archeological sites."

I understand there will be re-consideration of the "800 feet" stipulation. It does indeed appear to be excessive. I would favor 500 feet if that distance would be practical, particularly in the downtown historic district.

I have other questions that are too lengthy to recite in a letter. Representatives of the Barge-Chestnut Neighborhood Association will bring those forward to you in the course of the scheduled meeting on July 15th.

Thank you for the opportunity to register my comments. I look forward to the adoption of a solid, usable ordinance that will protect our vulnerable residential and historic areas.

Sincerely,



Leslie J. Wahl

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Nancy Adele Kenmotsu, Ph.D.

101 N 48th Av, #6B

Yakima, WA 98908

May 21, 2013

Mayor and City Council
City of Yakima
129 N Second St
Yakima, WA 98901

RE: Cell Towers & Neighborhoods

Dear Mayor Cawley and Council Members:

I write to you both as a member of the Yakima Historic Preservation Commission and as a resident of the City of Yakima. In both capacities, I am in full support of the current moratorium on cell towers in Yakima. The City needs to develop a process to cite these facilities without adverse effects to existing residential and historic districts. "Adverse effect" is a term defined by the regulations for Section 106 of the National Historic Preservation Act (36CFR800.5) and it includes introduction of visual elements that diminish the integrity of the property. As an example, the cell tower proposed at the southwest corner of 16th and Yakima avenues would have an adverse effect on the four historic properties surrounding it (all listed on the National Register of Historic Places) and the Barge Chestnut Historic District.

Yet, Yakima has other historic neighborhoods not on any local or national register that could also be adversely affected by similar proposals simply because we currently have no means to evaluate the effects of such placement. As well, I live in, and likely some or all of the people in this room, live in pleasant, peaceful residential neighborhoods. We too need a means to avoid the introduction of ugly, unwelcome, intrusive elements out of keeping with the design and scale of our neighborhood.

In sum, the moratorium is a prudent measure to seek resolutions of the need for cell towers with the need for quality of life. The moratorium comes at a time when the City seeks to position itself as a destination for visitors and new businesses. Cell towers placed at random, without any plan, do not impress visitors or potential investors. Without the moratorium and rules for cell tower placements, adverse effects to historic properties and historic districts will occur. At the same time, we can also anticipate that citizens in any residential neighborhood will have no voice in the placement of these towers next to their homes. That is not the quality of life that I seek in Yakima.

Sincerely,

signed by Nancy Kenmotsu

Nancy Kenmotsu

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Bob Bass
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May 16, 2013

Yakima City Council
c/o Mayor Micah Cawley
City of Yakima
129 N. 2nd Street
Yakima, WA 98901

VIA EMAIL AND FIRST CLASS MAIL

**RE: Moratorium on Telecommunication Towers
Ordinance No. 2013-014**

Dear Honorable Mayor Cawley:

AT&T is concerned about the impact of the six-month moratorium on filing and acceptance of applications and issuance of permits for telecommunication towers and related facilities approved by the Yakima City Council on April 2, 2013 ("Moratorium"). The Moratorium is a significant obstacle to providing the wireless service upgrades that Yakima residents and visitors demand and is in conflict with federal law. While AT&T is eager to work with the City to develop a workable ordinance for wireless service facilities in Yakima, we urge the Council to immediately repeal the Moratorium.

Technology in the telecommunications industry is evolving rapidly. The convenience and functionality of wireless devices – especially smartphones – are rendering traditional landline phones nearly obsolete. Wireless customers with access to mobile broadband use their phones to send and receive emails and text messages, browse the Internet, connect with friends and get breaking news via social media, stream video and music, utilize the latest apps and, of course, make phone calls. The National Center for Health Statistics estimates that US residents are increasingly choosing wireless phones as their primary, and often sole, source of communication. In Eastern Washington, 31.4% of residents now live in wireless-only households, compared to 6.3% living in landline-only households.¹

Likewise, small businesses depend upon wireless service to compete. A recent AT&T survey of small businesses indicated that nearly all (98%) small businesses utilize wireless technologies in their operations. 66% of small businesses responded that they could not survive – or it would be a major challenge to survive – without wireless service.²

¹ CDC. "Wireless Substitution: State-level Estimates from the National Health Interview Survey, 2010-2011." National Health Statistics Report, Number 61, October 12, 2012.

² AT&T. "2013 AT&T Small Business Technology Poll." AT&T Website. From URL: <http://www.att.com/gen/press-room?pid=23878>

Rapid adoption of wireless technology is driving demand for a new generation of wireless infrastructure to support it. In the past four years alone, AT&T has seen the demand for data on its network grow by 8,000%.³ AT&T is working to upgrade its network in Yakima to the latest wireless 4G Long Term Evolution ("LTE") technology. LTE is capable of providing data speeds up to ten times faster than 3G, providing a faster, more reliable broadband option for Yakima residents.

The Moratorium is a significant obstacle to providing the wireless service upgrades that Yakima residents and visitors demand and is in conflict with federal law. Section 6409(a) of the "Middle Class Tax Relief and Job Creation Act of 2012" states that a local jurisdiction cannot deny, and must approve, an application for collocation, including removal, replacement and addition of new transmission equipment when the existing tower and/or base station is not being substantially changed.

The FCC defines "substantial change" as:

1. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
4. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

The Moratorium would not allow AT&T, or any carrier, to add equipment outside of its existing compounds or install upgrades, even those that do not significantly change existing towers/structures pursuant to FCC definitions. Since the recent federal law covers these

³ Matt Hendrickson. "What will they think of next?" AT&T Magazine, Summer 2011.

activities, at a minimum, the exemption language in the Moratorium Ordinance (Section 2, Ordinance 2013-014) be modified accordingly.

Furthermore, the Moratorium likely violates the FCC "Shot Clock." The FCC Shot Clock requires that jurisdictions process applications in a timely manner – 90 days for collocations and 150 days for new towers. While AT&T does not currently have any new tower applications in the City of Yakima, we expect to submit applications in the near future. Simply refusing to intake and permit applications does not relieve the City of Shot Clock requirements. AT&T urges the City to repeal the Moratorium, but at a minimum it must reduce the length to no more than 90 days and during that time amend and implement code revisions for wireless service facilities in Yakima.

Thank you again for your attention to these matters. As the City works to develop Yakima's land use regulations for siting of wireless facilities, we would encourage you to examine those established by the City of Spokane. Again, we look forward to working with the City of Yakima on a solution that works for your residents and our customers in Yakima.

Sincerely,



Robert Bass
External Affairs President, Washington

Attachments

cc: Yakima City Council
Mark Kunkler, City of Yakima, Senior Assistant City Attorney
Steve Osguthorpe, City of Yakima, Community Development Director
Michael van Eckhardt, AT&T, General Attorney – Network Operations



**ZONING TEXT AMENDMENT –
CHAPTER 15.29 WIRELESS COMMUNICATION FACILITIES
TXT#002-13, SEPA#011-13**

EXHIBIT LIST

CHAPTER D

Public Notices

[illegible]

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

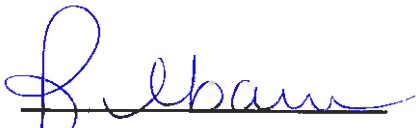
RE: SEPA#011-13, TXT#002-13

City Planning Division - Cell Tower Text Amendment

City wide

I, Rosalinda Ibarra, as an employee of the Yakima City Planning Division, have dispatched through the United States Mails, a **Notice of DNS**. A true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, listed SEPA agencies, and all interested parties of record. That said property owners are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the 19th day of July, 2013.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Rosalinda Ibarra

Administrative Assistant

**DOC.
INDEX**

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Ahtanum Irrigation District Beth Ann Brulotte Executive Assistant bethb@ahatanum.net	Cascade Natural Gas Jim Robinson Field Facilitator Jim.robinson@cngc.com	Department of Commerce Growth Management Services reviewteam@commerce.wa.gov
Department of Ecology Annie Szvetcz SEPA Policy Lead sepaunit@ecy.wa.gov	Department of Fish and Wildlife Eric Bartrand Eric.Bartrand@dfw.wa.gov	Department of Natural Resources Linda Hazlett Assistant Land Manager Linda.hazlett@dnr.wa.gov
Department of Social & Health Services Andrew Jenkins andrew.jenkins@dshs.wa.gov Jeanne Rodriguez Jeanne.rodriguez@dshs.wa.gov	Dept of Archaeology & Historic Preservation Greg Griffith Deputy State Historic Preservation Officer Greg.griffith@dahp.wa.gov	Dept of Archaeology & Historic Preservation Gretchen Kaehler Local Government Archaeologist Gretchen.Kaehler@dahp.wa.gov
Energy Facility Site Evaluation Council - EFSEC Stephen Posner SEPA Officer sposner@utc.wa.gov	Engineering Division Doug Mayo City Engineer dmayo@ci.yakima.wa.us Dana Kallevig Dana.kallevig@yakimawa.gov	Nob Hill Water Association Eric Rhoads eric@nobhillwater.org
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Yakima County Commissioners Commissioners.web@co.yakima.wa.us	Yakima County Health District yhd@co.yakima.wa.us	Yakima County Public Services Steven Erickson Planning Director Steven.Erickson@co.yakima.wa.us
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Yakima Regional Clean Air Agency Hasan Tahat Engineering & Planning Supervisor hasan@yrcaa.org	Yakima Valley Conference of Governments Shawn Conrad Planner conrads@yvcog.org	Yakima Valley Museum John A. Baule Director john@yakimavalleymuseum.org

**DOC.
INDEX**

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Manager Century Link 8 South 2nd Ave, Rm#304 Yakima, WA 98902	Chamber of Commerce 10 North 9th Street Yakima, WA 98901	Kevin Chilcote Charter Communications 1005 North 16th Ave Yakima, WA 98902
David Spurlock City of Union Gap P.O. Box 3008 Union Gap, WA 98903	Kelly McLain Department of Agriculture P.O. Box 42560 Olympia, WA 98504	Gwen Clear Department of Ecology 15 West Yakima Ave, Ste# 200 Yakima, WA 98902
Mark Teske Department of Fish & Wildlife 201 North Pearl Ellensburg, WA 98926	Environmental Protection Agency 1200 6th Ave. MS 623 Seattle, WA 98101	Federal Aviation Administration 2200 W. Washington Ave Yakima, WA 98903
Cayla Morgan Federal Aviation Administration Airports District Office 1601 Lind Ave SW Renton, WA 98055-4056	Governor's Office of Indian Affairs PO Box 40909 Olympia, WA 98504	Mike Paulson Pacific Power 500 North Keys Rd Yakima, WA 98901
Ray Wondercheck Soil Conservation District 1606 Perry Street, Ste. F Yakima, WA 98902	Paul Edmondson Trolleys 313 North 3rd Street Yakima, WA 98901	Jeff McKee United States Postal Service 205 W Washington Ave Yakima, WA 98903
WA State Attorney General's Office 1433 Lakeside Court, Ste# 102 Yakima, WA 98902	Christine Collins WA State Dept of Health, Office of Drinking Water 16201 E Indiana Ave, Ste# 1500 Spokane Valley, WA 99216	Robert Hodgman WSDOT, Aviation Division 818 79th Avenue, Ste B Tumwater, WA 98504-7335
Johnson Meninick Yakama Indian Nation P.O. Box 151 Toppenish, WA 98948	Ruth Jim Yakama Indian Nation P.O. Box 151 Toppenish, WA 98948	Elaine Beraza Yakima School District 104 North 4th Ave Yakima, WA 98902
Robert Smoot Yakima Valley Canal Co 1640 Garretson Lane Yakima, WA 98908	Scott Robertson Yakima Waste Systems 2812 Terrace Heights Dr Yakima, WA 98901	Yakima-Tieton Irrigation District Sandra Hull 470 Camp 4 Rd Yakima, WA 98908

SEPA REVIEWING AGENCIES Form List _updated 03.13.2013

Type of Notice: DNS

File Number: SEPA# 011-13 TXT# 002-13

Date of Mailing: 7/19/13

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Scott Clark
7506 Barge Court
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Yakima, WA 98903

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Ste#210
Yakima, WA 98901

Alfred A. Rose
1006 Westbrook Place
Yakima, WA 98908

Paul Stelzer
6402 Scenic Drive
Yakima, WA 98908

William Cook
7701 Graystone Court
Yakima, WA 98908

Ron Anderson
103 S 3rd St Ste#203
Yakima, WA 98902

Verizon Wireless
c/o Rod Michaelis
1411 E Pinecrest Road
Spokane, WA 99203

Hathaway, Mark, & Connors LLP
Michael Connors
520 SW Yamhill Street, Ste#235
Portland, OR 97204

Barge-Chestnut Neighborhood Assn
c/o Ralph Call
2608 West Chestnut Avenue
Yakima, WA 98902

Leslie Wahl
2403 West Yakima Avenue
Yakima, WA 98902

Sprint
c/o Stephen Meadows
10545 Willows Rd NE
Redmond, WA 98052

Type of Notice: DNS

File Number: SEPA#011-13, TXT#002-13

Date of Mailing: 7/19/13

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Interested Parties - CellTower Moratorium list

[illegible]

DNS
SEPA# 011-13
7/19/13

In-House Distribution E-mail List		
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Kevin Futrell	Transit Division	kevin.futrell@yakimawa.gov
Steve Osguthorpe	Community Development	steve.osguthorpe@yakimawa.gov
For the Record/File		
Binder Copy		Revised 07/2013

Type of Notice: DNS

File Number(s): SEPA# 011-13

Date of Mailing: 7/19/13

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D-3a

Ibarra, Rosalinda

From: Ibarra, Rosalinda
Sent: Friday, July 19, 2013 3:00 PM
To: 'ct1417@att.com'; 'mikeconnors@hkclip.com'
Subject: FW: NOTICE OF DNS - Cell Tower Text Amendment - SEPA#011-13, TXT#002-13
Attachments: DNS - Cell Tower Text Amdnt - SEPA011-13 TXT002-13.pdf

I had entered your e-mail address incorrectly on the previous e-mail I sent (see below). Please reply to this message to confirm receipt of this notice. Thank you!

Rosalinda Ibarra
Administrative Assistant
rosalinda.ibarra@yakimawa.gov
(509) 575-6183

From: Ibarra, Rosalinda
Sent: Friday, July 19, 2013 2:56 PM
To: Ahtanum Irrigation District - Beth Ann Brulotte; Cascade Natural Gas - Jim Robinson; Department of Commerce (CTED) - Review Team; Department of Ecology - SEPA Unit; Department of Fish and Wildlife - Eric Bartrand; Department of Natural Resources - Linda Hazlett; Department of Social & Health Services - Andrew Jenkins; Department of Social & Health Services - Jeanne Rodriguez; Dept Archaeology & Historic Preservation - Greg Griffith; Dept Archaeology & Historic Preservation - Gretchen Kaehler; Desgroesellier, Bob; Energy Facility Site Evaluation Council - Stephen Posner; Ibarra, Rosalinda; Kallevig, Dana; Nob Hill Water - Eric Rhoads; Office of Rural & Farmworker Housing - Marty Miller; Riddle, Dan; US Army Corps of Engineers - Karen M. Urelus; Wastewater Division - Scott Schafer; West Valley School District - Angela Watts; WSDOT - Paul Gonseth; WSDOT - Rick Holmstrom; Yakama Bureau of Indian Affairs - Bud Robbins; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Bureau of Indian Affairs - Steve Wangemann; Yakama Nation Environmental Mgmt Program - Kristina Proszek; Yakama-Klickitat Fisheries - John Marvin; Yakima Air Terminal - Airport Manager; Yakima County Commissioners; Yakima County Health District; Yakima County Planning Director - Steven Erickson; Yakima County Public Services Director, Vern Redifer; Yakima Greenway Foundation - Al Brown; Yakima Health District - Gordon Kelly; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima Valley Conference of Governments - Shawn Conrad; Yakima Valley Museum - John A. Baule; Belles, Carolyn; Brown, David; Cook, Debbie; Cutter, Jeff; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Futrell, Kevin; Kunkler, Mark; Matthews, Archie; Osguthorpe, Steve; Robertson, Jerry; Schafer, Scott; Schneider, Royale; Scott, James; Shane, Mike; Soptich, Mark; Willson, Shelley
Cc: 'rmichaelis@prolandllc.com'; 'Ralph Call'; 'stephen@quantumcontractingnw.com'; 'Don.blenker@t-mobile.com'; 'Dblenke59@gmail.com'; 'ken.lyons@wirelesscounsel.com'; 'ct1417@att.com'; 'teachemup@charter.net'; 'Maria.emig@t-mobile.com'; 'Rod.delarosa1@t-mobile.com'; 'nkenmotsu@geo-marine.com'; 'mikeconnors@hkclip.com'; 'reljwahl@msn.com'; Al Rose; Alfred A. Rose (silvrfx40@bmi.net); Benjamin W. Shoval (ben.shoval@shoval.com); Dave Fonfara; Ensey, Rick; Paul Stelzer; Ron Anderson (rondedicatedrealty@hotmail.com); Scott Clark (scott.clark@charter.net); William Cook (cook.w@charter.net)
Subject: NOTICE OF DNS - Cell Tower Text Amendment - SEPA#011-13, TXT#002-13

Rosalinda Ibarra
Community Development Administrative Assistant
rosalinda.ibarra@yakimawa.gov

City of Yakima | Planning Division
129 North 2nd Street, Yakima WA 98901
p: (509) 575-6183 * f: (509) 575-6105

**CITY OF YAKIMA
DETERMINATION OF NON-SIGNIFICANCE
NOTICE OF RETENTION**

July 19, 2013

SEPA File No. 011-13

The City of Yakima Department of Community and Economic Development issued a:

☒ Determination of Nonsignificance (DNS),

☐ Mitigated Determination of Nonsignificance (MDNS),

☐ Modified DNS/MDNS,

on June 27, 2013 for this proposal under the State Environmental Policy Act (SEPA) and WAC 197-11-340(2). This retention concerns an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 which regulates the location and placement of Wireless Communication Facilities.

This threshold determination is hereby:

☒ Retained

☐ Modified. Modifications to this threshold determination include the following:

☐ Withdrawn. This threshold determination has been withdrawn due to the following:

☐ Delayed. A final threshold determination has been delayed due to the following:

Summary of Comments and Responses (if applicable): N/A

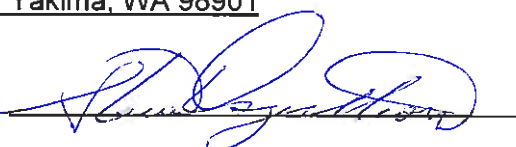
Responsible official: Steve Osguthorpe, AICP

Position/Title: Community Development Director/SEPA Responsible Official

Phone: (509) 575-6183

Address: 129 N 2nd Street, Yakima, WA 98901

Date: July 19, 2013

Signature: 

You may appeal this determination to Steve Osguthorpe, City of Yakima Community Development Director, at 129 N 2nd St., Yakima, WA 98901, no later than August 2, 2013. You must submit a completed appeal application form with the \$580 application fee. Be prepared to make specific factual objections. Contact the City of Yakima, Planning Division, for information on appeal procedures.

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RECEIVED

JUL 02 2013

CITY OF YAKIMA
COMMUNITY DEVELOPMENT

STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

July 1, 2013

Jeff Peters
Associate Planner
City of Yakima
129 North 2nd Street
Yakima, Washington 98901

Dear Mr. Peters:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Yakima - Proposed amendment to the urban area zoning ordinance adding a new Chapter 15.29 Wireless Communication Facilities. These materials were received on June 27, 2013 and processed with the Material ID # 19293.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

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AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

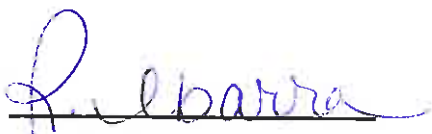
RE: SEPA#011-13, TXT#002-13

City Planning Division - Cell Tower Text Amendment

City wide

I, Rosalinda Ibarra, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Application, Environmental Review, and Yakima Planning Commission Public Hearing**. A true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant; and SEPA reviewing agencies. That said are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the 27th day of June, 2013.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Rosalinda Ibarra
Community Development
Administrative Assistant

DOC.
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D-1c

Ahtanum Irrigation District Beth Ann Brulotte Executive Assistant bethb@ahtanum.net	Cascade Natural Gas Jim Robinson Field Facilitator Jim.robinson@cngc.com	Department of Commerce Growth Management Services reviewteam@commerce.wa.gov
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West Valley School District Angela Watts Asst. Supt. Of Business & Operations watts@wvwd208.org	WSDOT Paul Gonseth Planning Engineer gonsetp@wsdot.gov	WSDOT Rick Holmstrom Development Services holmstr@wsdot.wa.gov
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Yakama Nation Environmental Management Program Kristina Proszek Environmental Review Coordinator enviroreview@yakama.com	Yakama-Klickitat Fisheries Project John Marvin jmarvin@yakama.com	Yakima Air Terminal Carl Remmel Airport Asst Manager Carl.remmel@yakimaairportterminal.com
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Yakima Regional Clean Air Agency Hasan Tahat Engineering & Planning Supervisor hasan@yrcaa.org	Yakima Valley Conference of Governments Shawn Conrad Planner conrads@yvcog.org	Yakima Valley Museum John A. Baule Director john@yakimavalleymuseum.org

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Manager Century Link 8 South 2nd Ave, Rm#304 Yakima, WA 98902	Chamber of Commerce 10 North 9th Street Yakima, WA 98901	Kevin Chilcote Charter Communications 1005 North 16th Ave Yakima, WA 98902
David Spurlock City of Union Gap P.O. Box 3008 Union Gap, WA 98903	Kelly McLain Department of Agriculture P.O. Box 42560 Olympia, WA 98504	Gwen Clear Department of Ecology 15 West Yakima Ave, Ste# 200 Yakima, WA 98902
Mark Teske Department of Fish & Wildlife 201 North Pearl Ellensburg, WA 98926	Environmental Protection Agency 1200 6th Ave. MS 623 Seattle, WA 98101	Federal Aviation Administration 2200 W. Washington Ave Yakima, WA 98903
Cayla Morgan Federal Aviation Administration Airports District Office 1601 Lind Ave SW Renton, WA 98055-4056	Governor's Office of Indian Affairs PO Box 40909 Olympia, WA 98504	Mike Paulson Pacific Power 500 North Keys Rd Yakima, WA 98901
Ray Wondercheck Soil Conservation District 1606 Perry Street, Ste. F Yakima, WA 98902	Paul Edmondson Trolleys 313 North 3rd Street Yakima, WA 98901	Jeff McKee United States Postal Service 205 W Washington Ave Yakima, WA 98903
WA State Attorney General's Office 1433 Lakeside Court, Ste# 102 Yakima, WA 98902	Christine Collins WA State Dept of Health, Office of Drinking Water 16201 E Indiana Ave, Ste# 1500 Spokane Valley, WA 99216	Robert Hodgman WSDOT, Aviation Division 818 79th Avenue, Ste B Tumwater, WA 98504-7335
Johnson Meninick Yakama Indian Nation P.O. Box 151 Toppenish, WA 98948	Ruth Jim Yakama Indian Nation P.O. Box 151 Toppenish, WA 98948	Elaine Beraza Yakima School District 104 North 4th Ave Yakima, WA 98902
Robert Smoot Yakima Valley Canal Co 1640 Garretson Lane Yakima, WA 98908	Scott Robertson Yakima Waste Systems 2812 Terrace Heights Dr Yakima, WA 98901	Yakima-Tieton Irrigation District Sandra Hull 470 Camp 4 Rd Yakima, WA 98908

SEPA REVIEWING AGENCIES Form List _updated 03.13.2013

Type of Notice: Notice of App, SEPA, ypc Hearing

File Number: SEPA# 011-13, TXT#002-13

Date of Mailing: 6/27/13

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#** D-1b

Interested Parties - CellTower Moratorium

[illegible]

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D-

Scott Clark
7506 Barge Court
Yakima, WA 98908

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Yakima, WA 98903

Benjamin W. Shoval
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Ste#210
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Paul Stelzer
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William Cook
7701 Graystone Court
Yakima, WA 98908

Ron Anderson
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Yakima, WA 98902

Type of Notice: Atc of App, SEPA, & YPC Hearing

File Number: SEPA#011-13 TXT#002-13

Date of Mailing: 6/27/13

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In-House Distribution E-mail List		
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Dan Riddle	Engineering	dan.riddle@yakimawa.gov
Jeff Cutter	Legal Dept	jeff.cutter@yakimawa.gov
Archie Matthews	ONDS	archie.matthews@yakimawa.gov
Mark Soptich	Fire Dept	mark.soptich@yakimawa.gov
Jerry Robertson	Code Administration	jerry.robertson@yakimawa.gov
Royale Schneider	Code Administration	royale.schneider@yakimawa.gov
Glenn Denman	Code Administration	glenn.denman@yakimawa.gov
Nathan Thompson	Code Administration	nathan.thompson@yakimawa.gov
Dave Brown	Water/Irrigation	dave.brown@yakimawa.gov
Mike Shane	Water/Irrigation	mike.shane@yakimawa.gov
Carolyn Belles	Wastewater	carolyn.belles@yakimawa.gov
Scott Schafer	Wastewater	scott.schafer@yakimawa.gov
James Dean	Refuse Division	james.dean@yakimawa.gov
Kevin Futrell	Transit Division	kevin.futrell@yakimawa.gov
Steve Osguthorpe	Community Development	steve.osguthorpe@yakimawa.gov
For the Record/File		
Binder Copy		Revised 04/2013

Type of Notice: Notic of App, SEPA, 3 ypc Hearing

File Number(s): SEPA#011-13 TXT#1002-13

Date of Mailing: 6/27/13

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Ibarra, Rosalinda

From: Ibarra, Rosalinda
Sent: Thursday, June 27, 2013 3:18 PM
To: Ahtanum Irrigation District - Beth Ann Brulotte; Cascade Natural Gas - Jim Robinson; Department of Commerce (CTED) - Review Team; Department of Ecology - SEPA Unit; Department of Fish and Wildlife - Eric Bartrand; Department of Natural Resources - Linda Hazlett; Department of Social & Health Services - Andrew Jenkins; Department of Social & Health Services - Jeanne Rodriguez; Dept Archaeology & Historic Preservation - Greg Griffith; Dept Archaeology & Historic Preservation - Gretchen Kaehler; Energy Facility Site Evaluation Council - Stephen Posner; Ibarra, Rosalinda; Kallevig, Dana; Mayo, Doug; Nob Hill Water - Eric Rhoads; Office of Rural & Farmworker Housing - Marty Miller; Riddle, Dan; US Army Corps of Engineers - Karen M. Urelus; Schafer, Scott; West Valley School District - Angela Watts; WSDOT - Paul Gonseth; WSDOT - Rick Holmstrom; Yakama Bureau of Indian Affairs - Bud Robbins; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Bureau of Indian Affairs - Steve Wangemann; Yakama Nation Environmental Mgmt Program - Kristina Proszek; Yakama-Klickitat Fisheries - John Marvin; Remmel, Lee; Yakima County Commissioners; Yakima County Health District; Yakima County Planning Director - Steven Erickson; Yakima County Public Services Director, Vern Redifer; Yakima Greenway Foundation - Al Brown; Yakima Health District - Gordon Kelly; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima Valley Conference of Governments - Shawn Conrad; Yakima Valley Museum - John A. Baule; Al Rose; Alfred A. Rose (silvrfx40@bmi.net); Benjamin W. Shoval (ben.shoval@shoval.com); Dave Fonfara; Ensey, Rick; Kunkler, Mark; Paul Stelzer; Ron Anderson (rondedicatedrealty@hotmail.com); Scott Clark (scott.clark@charter.net); William Cook (cook.w@charter.net); Belles, Carolyn; Brown, David; Cutter, Jeff; Denman, Glenn; Futrell, Kevin; Matthews, Archie; Osguthorpe, Steve; Robertson, Jerry; Schafer, Scott; Schneider, Royale; Scott, James; Shane, Mike; Soptich, Mark; Thompson, Nathan
Cc: 'rmichaelis@prolandllc.com'; 'Ralph Call'; 'stephen@quantumcontractingnw.com'; 'Don.blenker@t-mobile.com'; 'Dblenke59@gmail.com'; 'ken.lyons@wirelesscounsel.com'; 'teachemup@charter.net'; 'Maria.emig@t-mobile.com'; 'Rod.delarosa1@t-mobile.com'; 'nkenmotsu@geo-marine.com'
Subject: NOTICE OF APPLICATION, SEPA, AND YPC PUBLIC HEARING - Cell Tower Text Amendment - SEPA#011-13, TXT#002-13
Attachments: NTC OF APP, SEPA, YPC HEARING - Cell Tower Text Amdt - SEPA011-13 TXT002-13.pdf

Rosalinda Ibarra
Community Development Administrative Assistant
rosalinda.ibarra@yakimawa.gov

City of Yakima | Planning Division
129 North 2nd Street, Yakima WA 98901
p: (509) 575-6183 * f: (509) 575-6105

Peters, Jeff

To: reviewteam@commerce.wa.gov
Subject: City of Yakima 60-day Adoption Notice for Cell Tower Ordinance
Attachments: City of Yakima Cell Tower GMS-Plan-Dev-Reg-Review-Commerce-Notice-60-Day.doc;
Ordinance DRAFT CELL TOWERS April 4 2013 (2).docx

To whom it may concern,

The City of Yakima is in the process of adding a new Chapter 15.29 Wireless Communication Facilities to its Urban Area Zoning Ordinance. The new chapter proposes language to: 1) Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently; 2) Encourage personal wireless service providers to locate towers and antenna in nonresidential areas; 3) Encourage personal wireless service providers to co-locate on new and existing tower sites; 4) Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; 5) Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and 6) Provide for the wireless communications needs of governmental entities.

In accordance with the requirements of the state department of Commerce the City of Yakima is transmitting the required 60-day Notice of Intent to Adopt and accompany ordinance on this day June 27, 2013. Should you or any of your staff have questions about the attached documents, please feel free to contact me Jeff Peters at (509) 575-6163.

Sincerely,

Jeff Peters
Associate Planner
City of Yakima

-Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below.
Please proof read notice carefully to check spelling and run dates,
if you need to make changes

Date:	06/26/13
Account #:	110358
Company Name:	CITY OF YAKIMA/YAKIMA PLANNING
Contact:	ROSALINDA IBARRA
Address:	DEPT OF COMM/ECON DEVELOPEMENT 129 N 2ND STREET YAKIMA, WA 98901-2720
Telephone:	(509) 575-6164

Account Rep:	Simon Sizer
Phone #	(509) 577-7740
Email:	ssizer@yakimaherald.com
Ad ID:	336587
Start:	06/27/13
Stop:	06/27/13
Total Cost:	\$246.75
Agate Lines:	244
# of Inserts:	1
Ad Class:	6021

Run Dates:	
Yakima Herald-Republic	06/27/13

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Ibarra, Rosalinda

From: ssizer@yakimaherald.com
Sent: Wednesday, June 26, 2013 3:51 PM
To: Ibarra, Rosalinda
Subject: Ad: 336587, CITY OF YAKIMA NOTICE OF APPLICATION
Attachments: IBARRA-46-336587-1.pdf

Here's the revised copy.

Legal Notices

Legal Notices

CITY OF YAKIMA NOTICE OF APPLICATION, NOTICE OF PUBLIC HEARING AND DETERMINATION OF NON-SIGNIFICANCE

DATE: July 27, 2013; **TO:** SEPA Reviewing Agencies, and Interested Parties; **FROM:** Steve Osguthorpe, City of Yakima Community Development Manager; **SUBJECT:** Notice of Application, Public Hearing and Determination of Non-Significance; **NOTICE OF APPLICATION:** Project Location: Citywide; **Project Applicant:** City of Yakima, Planning Division; **File Numbers:** SEPA #011-13; **Date of Application:** June 24, 2013; **Date of Determination of Completeness:** June 25, 2013; **PROJECT DESCRIPTION:** The City of Yakima Planning Department is proposing an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to: 1) Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently; 2) Encourage personal wireless service providers to locate towers and antenna in nonresidential areas; 3) Encourage personal wireless service providers to collocate on new and existing tower sites; 4) Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; 5) Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and 6) Provide for the wireless communications needs of governmental entities. The draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts (See Environmental Checklist SEPA#011-13 for further description and explanation online at: <http://gis.yakimawa.gov/postcardwizard/index.html>, or <http://www.yakimawa.gov/services/planning> (Quick Links); **ENVIRONMENTAL REVIEW:** The City of Yakima has reviewed the proposed project for probable adverse environmental impacts, and has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). The information relied upon in reaching this determination is available to the public upon request at the City of Yakima Planning Division. [X] This DNS is issued under WAC § 197-11-340(2); the lead agency will not act on this proposal for 20 days from the date below.

REQUEST FOR WRITTEN COMMENTS: Agencies, tribes, and the public are encouraged to review and comment on the proposed application. All written comments received by July 17, 2013, will be considered prior issuance of the final threshold determination. Please send written comments to: Steve Osguthorpe, Community Development Manager, City of Yakima, Department of Community Development, 129 North 2nd Street, Yakima, Washington 98901; **NOTICE OF DECISION:** Decisions and future notices will be sent to anyone who submits comments on this application or request additional notice. The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 North 2nd Street, Yakima, Washington. If you have any question on this proposal, please call Jeff Peters, Associate Planner at (509) 575-6163 or e-mail at jeff.peters@yakimawa.gov; **NOTICE OF PUBLIC HEARING:** This application will require two public hearings; one closed record hearing before the City of Yakima Planning Commission to be followed by an open record public hearing before the Yakima City Council. The public hearing before the City of Yakima Planning Commission has been scheduled for August 7, 2013, beginning at 2:00 pm, in the Council Chambers, City Hall, 129 N 2nd Street, Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. A separate public notice will be provided for the public hearing before the Yakima City Council.

(336587) June 27, 2013

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Ibarra, Rosalinda

From: Ibarra, Rosalinda
Sent: Thursday, June 27, 2013 3:25 PM
To: Brown, Michael; Crockett, Ken; Daily Sun News - Bob Story; Ibarra, Rosalinda; KAPP TV News; KBBO-KRSE Radio - manager; KCJT TV News; KDNA Radio; KEPR TV News; KIMA TV - Jim Niedelman; KIMA TV News; KIT/KATS/DMVW/KFFM - Lance Tormey; KNDO TV - Julie Stern; KNDO TV News; KUNS-TV Univision; KVEW TV News; Lozano, Bonnie; NWCN News; NWPR - Anna King; Randy Luvaas - Yakima Business Times; Tu Decides - Albert Torres; UNIVISION TV - Marta Isabel Sanchez; Yakima Herald Republic - Adriana Janovich; Yakima Herald Republic - Chris Bristol; Yakima Herald Republic - Craig Troianello; Yakima Herald Republic - Erin Snelgrove; Yakima Herald Republic - Mai Hoang; Yakima Herald Republic - Mark Morey; Yakima Herald Republic Newspaper; Yakima Valley Business Times; Yakima Valley Business Times - George Finch; Beehler, Randy
Cc: Peters, Jeff
Subject: FW: NOTICE OF APPLICATION, SEPA, AND YPC PUBLIC HEARING - Cell Tower Text Amendment - SEPA#011-13, TXT#002-13
Attachments: NTC OF APP, SEPA, YPC HEARING - Cell Tower Text Amdt - SEPA011-13 TXT002-13.pdf

Rosalinda Ibarra

Community Development Administrative Assistant
rosalinda.ibarra@yakimawa.gov

City of Yakima | Planning Division

129 North 2nd Street, Yakima WA 98901

p: (509) 575-6183 * f: (509) 575-6105

**CITY OF YAKIMA
NOTICE OF APPLICATION, NOTICE OF PUBLIC HEARING AND DETERMINATION
OF NON-SIGNIFICANCE**

DATE: June 27, 2013
TO: SEPA Reviewing Agencies, and Interested Parties
FROM: Steve Osguthorpe, Community Development Manager
SUBJECT: Notice of Application, Public Hearing and Determination of Non-Significance

NOTICE OF APPLICATION

Project Location: Citywide.
Project Applicant: City of Yakima, Planning Division
File Numbers: SEPA #011-13
Date of Application: June 24, 2013
Date of Determination of Completeness: June 25, 2013

PROJECT DESCRIPTION

The City of Yakima Planning Department is proposing an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to:

1. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
2. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
3. Encourage personal wireless service providers to co-locate on new and existing tower sites;
4. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
5. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
6. Provide for the wireless communications needs of governmental entities.

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The draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts (See Environmental Checklist SEPA#011-13 for further description and explanation online at:

<http://www.yakimawa.gov/services/planning/postcard>, or

<http://www.yakimawa.gov/services/planning> (Quick Links)

ENVIRONMENTAL REVIEW

The City of Yakima has reviewed the proposed project for probable adverse environmental impacts, and has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW [43.21C.030](#) (2) (c). The information relied upon in reaching this determination is available to the public upon request at the City of Yakima Planning Division.

☒ This DNS is issued under WAC § 197-11-340(2); the lead agency will not act on this proposal for 20 days from the date below.

Responsible Official: Steve Osguthorpe, AICP
Position/Title: SEPA Responsible Official
Phone: (509) 575-6163
Address: 129 N. 2nd Street, Yakima, WA 98901

Date: June 27, 2013

Signature: 

REQUEST FOR WRITTEN COMMENTS: Agencies, tribes, and the public are encouraged to review and comment on the proposed application. All written comments received by **July 17, 2013**, will be considered prior issuance of the final threshold determination. Please send written comments to: Steve Osguthorpe, Community Development Manager; City of Yakima, Department of Community Development; 129 North 2nd Street, Yakima, Washington 98901.

The following conditions have been identified that may be used to mitigate the adverse environmental impacts of the proposal: No impacts identified.

Required Permits – None.

Required Studies – None.

Existing Environmental Documents: SEPA/GMA Integrated Environmental Summary.
Preliminary determination of the development regulations that will be used for project mitigation and consistency: N/A

NOTICE OF DECISION

Decisions and future notices will be sent to anyone who submits comments on this application or request additional notice. The file containing the complete application is available for public review at the City of Yakima Planning Division, 2nd floor City Hall, 129 North 2nd Street, Yakima, Washington. If you have any question on this proposal, please call Jeff Peters, Associate Planner at (509) 575-6163 or e-mail at jeff.peters@yakimawa.gov.

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NOTICE OF PUBLIC HEARING This application will require two public hearings; one closed record hearing before the City of Yakima Planning Commission to be followed by an open record public hearing before the Yakima City Council. The public hearing before the City of Yakima Planning Commission has been scheduled for **August 7, 2013**, beginning at **2:00 pm**, in the Council Chambers, City Hall, 129 N 2nd Street, Yakima, WA. Any person desiring to express their views on this matter is invited to attend the public hearing or to submit their written comments to: City of Yakima, Planning Division, 129 N 2nd St., Yakima, WA 98901. **A separate public notice will be provided for the public hearing before the Yakima City Council.**

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[illegible]



LAND USE APPLICATION

CITY OF YAKIMA, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

129 NORTH SECOND STREET, 2ND FLOOR, YAKIMA, WA 98901

VOICE: (509) 575-6183 FAX: (509) 575-6105

INSTRUCTIONS – PLEASE READ FIRST Please type or print your answers clearly.

Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable.

This application consists of four parts. PART I - GENERAL INFORMATION AND PART IV - CERTIFICATION are on this page. PART II and III contain additional information specific to your proposal and MUST be attached to this page to complete the application.

PART I – GENERAL INFORMATION

1. Applicant's Name, Address, And Phone Number	Name	City of Yakima Planning Department						
	Street	129 North Second Street						
	City	Yakima	ST	WA	Zip	98901	Phone	(509) 575-6183
2. Applicant's Property Interest	Check One	<input type="checkbox"/> Owner	<input type="checkbox"/> Agent	<input type="checkbox"/> Purchaser	<input checked="" type="checkbox"/> Other: Local Government			
3. Property Owner's Name, Address, And Phone Number (If Other Than Applicant)	Name							
	Street							
	City		ST		Zip		Phone	()
4. Subject Property's Assessor's Parcel Number(s): Parcels within the boundaries of the City of Yakima city								

5. Property Address: N/A

6. Legal Description of Property, (if lengthy, please attach it on a separate document) N/A

7. Property's Existing Zoning:

☒ SR ☒ R-1 ☒ R-2 ☒ R-3 ☒ B-1 ☒ B-2 ☒ HB ☒ SCC ☒ LCC ☒ CBD ☒ GC ☒ AS ☒ RD ☒ M-1 ☒ M-2

8. Type Of Application: (Check All That Apply)

<input type="checkbox"/> Administrative Adjustment	<input checked="" type="checkbox"/> Environmental Checklist (SEPA)	<input type="checkbox"/> Easement Release
<input type="checkbox"/> Type (2) Review	<input type="checkbox"/> Right-of-Way Vacation	<input type="checkbox"/> Rezone
<input type="checkbox"/> Type (3) Review	<input type="checkbox"/> Transportation Concurrency	<input type="checkbox"/> Shoreline
<input type="checkbox"/> Short Plat	<input type="checkbox"/> Non-Conforming Structure/Use	<input type="checkbox"/> Critical Areas
<input type="checkbox"/> Long Plat	<input type="checkbox"/> Type 3 Modification	<input type="checkbox"/> Variance
<input type="checkbox"/> Admin. Modification	<input type="checkbox"/> Interpretation by Hearing Examiner	<input type="checkbox"/> Amended Plat
<input type="checkbox"/> Appeal	<input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> Binding Site Plan
<input type="checkbox"/> Home Occupation	<input type="checkbox"/> Comp Plan Amendment	<input type="checkbox"/> Planned Development
<input type="checkbox"/> Short Plat Exemption: _____ <input checked="" type="checkbox"/> Other: <u>Zoning Ordinance Amendment</u>		

PART II – SUPPLEMENTAL APPLICATION, PART III – REQUIRED ATTACHMENTS, & PART IV – NARRATIVE

9. SEE ATTACHED SHEETS

PART V – CERTIFICATION

10. I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.


PROPERTY OWNER'S SIGNATURE

6-24-13
DATE

FOR ADMINISTRATIVE USE ONLY

Notes:

FILE # SEPA#011-13

DATE FEE PAID	RECEIVED BY	Amount	Receipt No.	Hearing Date

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ENVIRONMENTAL CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)

(AS TAKEN FROM WAC 197-11-960)

YAKIMA MUNICIPAL CODE CHAPTER 6.88

PURPOSE OF CHECKLIST

The State Environmental Policy Act (SEPA), RCW Ch. 43.21C, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can. You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later. Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you. The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

USE OF CHECKLIST FOR NONPROJECT PROPOSALS

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND INFORMATION (To be completed by the applicant.)

1. Name Of Proposed Project (If Applicable): City of Yakima Urban Area Zoning Ordinance Wireless Communication Amendment.
2. Applicant's Name & Phone: City of Yakima Planning Department, 509-575-6183.
3. Applicant's Address: 129 North Second Street, Yakima, WA 98901.
4. Contact Person & Phone: Mark Kunkler (509) 575-3552, or Jeff Peters at (509) 575-6163
5. Agency Requesting Checklist: City of Yakima
6. Date The Checklist Was Prepared: June 24, 2013.
7. Proposed Timing Or Schedule (Including Phasing, If Applicable): N/A
8. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain: Not at this time.

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9. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal: None.

10. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain: None pending

11. List any government approvals or permits that will be needed for your proposal, if known: SEPA determination, City of Yakima Planning Commission Public Hearing, and City Council Approval.

12. Give a brief, but complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.):

This proposal includes an amendment to the City of Yakima's Urban Area Zoning Ordinance adding a new Chapter 15.29 Wireless Communication Facilities. The new chapter proposes language to:

- a. Enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently;
- b. Encourage personal wireless service providers to locate towers and antenna in nonresidential areas;
- c. Encourage personal wireless service providers to co-locate on new and existing tower sites;
- d. Encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal;
- e. Encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact; and
- f. Provide for the wireless communications needs of governmental entities.

The draft ordinance provides for a hierarchy of preferred locations, site design, height restrictions, proximity limitations from residential and historic districts, and aesthetic criteria which apply to new wireless facilities prior to locating in a residential zone, or historic district. The proposed ordinance allows wireless communication towers in all city zoning districts, however siting criteria and other development standards apply to residentially zoned property, and historic districts (see draft ordinance for more information).

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PLANNING DIV.**

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13. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.: City limits.

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JUN 24 2013

**CITY OF YAKIMA
PLANNING DIV.**

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
1. Earth	
a. General description of the site (✓ one):	
<input type="checkbox"/> flat <input type="checkbox"/> rolling <input type="checkbox"/> hilly <input type="checkbox"/> steep slopes <input type="checkbox"/> mountainous <input type="checkbox"/> other	
b. What is the steepest slope on the site (approximate percent slope)? N/A.	
c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. See United States Department of Agriculture Soil Conservation Service <u>Soil Survey of Yakima County Area Washington</u>	
d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. See United States Department of Agriculture Soil Conservation Service <u>Soil Survey of Yakima County Area Washington</u>	
e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill. None	
f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. N/A	
g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? N/A	
h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: N/A	
2. Air	
a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, and industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. N/A.	

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. N/A.	<div data-bbox="1242 457 1469 682" data-label="Text"> <p>RECEIVED JUN 24 2013 CITY OF YAKIMA PLANNING DIV.</p> </div>
c. Proposed measures to reduce or control emissions or other impacts to air, if any: N/A	
3. Water	
a. Surface:	
1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. N/A	
2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. N/A	
3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. N/A	
4. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. No	
5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. N/A	
6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. N/A	
b. Ground:	
1. Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known. N/A	
2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. N/A	
c. Water Runoff (including stormwater):	

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. N/A	<div data-bbox="1252 449 1463 491" style="text-align: center;">RECEIVED</div> <div data-bbox="1252 527 1471 569" style="text-align: center;">JUN 24 2013</div> <div data-bbox="1243 590 1471 659" style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</div>
2. Could waste materials enter ground or surface waters? If so, generally describe. N/A	
3. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any: N/A	
4. Plants:	
a. Check (✓) types of vegetation found on the site:	
Deciduous Tree: <input checked="" type="checkbox"/> Alder <input checked="" type="checkbox"/> Maple <input checked="" type="checkbox"/> Aspen <input type="checkbox"/> Other	
Evergreen Green: <input checked="" type="checkbox"/> Fir <input checked="" type="checkbox"/> Cedar <input checked="" type="checkbox"/> Pine <input type="checkbox"/> Other	
<input checked="" type="checkbox"/> Shrubs <input checked="" type="checkbox"/> Grass <input checked="" type="checkbox"/> Pasture Crop Or Grain <input type="checkbox"/> Other	
Other Types Of Vegetation:	
b. What kind and amount of vegetation will be removed or altered? None	
c. List threatened or endangered species known to be on or near the site. There are minor amounts of threatened or endangered species know to live in or around the city limits of Yakima, however this proposal does not involve any change to the land or habitat, and is considered none-project.	
d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: N/A	
5. Animals:	
a. Check (✓) any birds and animals which have been observed on or near the site or are known to be on or near the site:	
Birds: <input checked="" type="checkbox"/> Hawk <input checked="" type="checkbox"/> Heron <input checked="" type="checkbox"/> Eagle <input checked="" type="checkbox"/> Songbirds <input type="checkbox"/> Other	
Mammals: <input type="checkbox"/> Deer <input type="checkbox"/> Bear <input type="checkbox"/> Elk <input checked="" type="checkbox"/> Beaver <input type="checkbox"/> Other	
Fish: <input checked="" type="checkbox"/> Bass <input checked="" type="checkbox"/> Salmon <input checked="" type="checkbox"/> Trout <input type="checkbox"/> Herring <input type="checkbox"/> Shellfish <input type="checkbox"/> Other	
b. List any threatened or endangered species known to be on or near the site. There are minor amounts of threatened or endangered species know to live in or around the city limits of Yakima, however this proposal does not involve any change to the land or habitat, and is considered none-project.	
c. Is the site part of a migration route? If so, explain. Migratory birds may utilize property within the City limits; however this proposal does not involve any change to the land or habitat, and is considered none-project.	
d. Proposed measures to preserve or enhance wildlife, if any: N/A	
6. Energy and Natural Resources	
a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. N/A	

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. N/A</p> <p>c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: N/A</p>	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 2013</p> <p style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</p>
<p>7. Environmental Health</p>	
<p>a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe. N/A</p>	
<p>1. Describe special emergency services that might be required. N/A</p>	
<p>2. Proposed measures to reduce or control environmental health hazards, if any: N/A</p>	
<p>b. Noise</p>	
<p>1. What types of noise exist in the area, which may affect your project (for example: traffic, equipment, operation, other)? N/A</p>	
<p>2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. N/A</p>	
<p>3. Proposed measures to reduce or control noise impacts, if any: N/A</p>	
<p>8. Land and Shoreline Use</p>	
<p>a. What is the current use of the site and adjacent properties? N/A</p>	
<p>b. Has the site been used for agriculture? If so, describe. Many of the properties within the City of Yakima have been used for agriculture purposes in the past.</p>	
<p>c. Describe any structures on the site. N/A</p>	
<p>d. Will any structures be demolished? If so, what? N/A</p>	
<p>e. What is the current zoning classification of the site? The current zoning classifications which are effected by these amendments are as follows: SR, R-1, R-2, R-3, B-1, B-2, HB, SCC, LCC, AS, GC, CBD, RD, and M-1</p>	
<p>f. What is the current comprehensive plan designation of the site? The Comprehensive Plan designations within the City of Yakima area as follows: Low Density Residential, Medium Density Residential, High Density Residential, Professional Office, Neighborhood Commercial, Community Commercial, General Commercial, Regional Commercial, CBD Core Commercial, and Industrial.</p>	

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
g. If applicable, what is the current shoreline master program designation of the site? N/A	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 2013</p> <p style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</p>
h. Has any part of the site been classified as an "environmentally sensitive" area? If so specify. N/A – Non-Project Action	
i. Approximately how many people would reside or work in the completed project? N/A	
j. Approximately how many people would the completed project displace? N/A	
k. Proposed measures to avoid or reduce displacement impacts, if any. N/A	
l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: The existing proposal will modify the above mentioned City of Yakima regulations and land use plans.	
9. Housing	
a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. N/A	
b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. N/A	
c. Proposed measures to reduce or control housing impacts, if any: N/A	
10. Aesthetics	
a. What is the tallest height of any proposed structures, not including antennas; what are the principal exterior building materials proposed? The tallest height that this ordinance allows for an antenna in the residential and historic districts is sixty feet. In all other zones 100 feet is the maximum allowed height.	
b. What views in the immediate vicinity would be altered or obstructed? N/A	
c. Proposed measures to reduce or control aesthetic impacts, if any: The draft ordinance proposes to impose screening and other site design criteria to reduce the aesthetic impacts of wireless communication facilities (see draft ordinance for additional information).	
11. Light and Glare	
a. What type of light or glare will the proposal produce? What time of day would it mainly occur? None, however the ordinance does provide regulation of lighting.	
b. Could light or glare from the finished project be a safety hazard or interfere with views? N/A	
c. What existing off-site sources of light or glare may affect your proposal? None	
d. Proposed measures to reduce or control light and glare impacts, if any: None, however the ordinance does provide regulation of lighting.	

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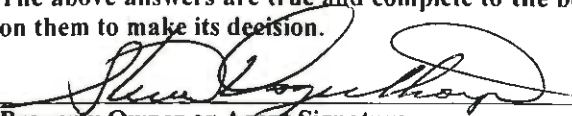
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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
12. Recreation	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 2013</p> <p style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</p>
a. What designated and informal recreational opportunities are in the immediate vicinity? N/A	
b. Would the proposed project displace any existing recreational uses? If so, describe. N/A	
c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: N/A	
13. Historic and Cultural Preservation	
a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe. N/A	
b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural important known to be on or next to the site. N/A	
c. Proposed measures to reduce or control impacts, if any: The draft ordinance provides language to regulate, limit, and reduce the impacts of wireless communication towers within residential and historic districts.	
14. Transportation	
a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any. N/A	
b. Is site currently serviced by public transit? If not, what is the approximate distance to the nearest transit stop? N/A	
c. How many parking spaces would the completed project have? N/A How many would the project eliminate? N/A	
d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private). N/A	
e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. N/A	
f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur. N/A	

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
g. Proposed measures to reduce or control transportation impacts, if any: N/A	<div data-bbox="1234 346 1469 588" data-label="Text"> <p>RECEIVED JUN 24 2013 CITY OF YAKIMA PLANNING DIV.</p> </div>
15. Public Services	
a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe: N/A	
b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity, which might be needed. N/A	
16. Utilities	
a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.	
b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity, which might be needed. N/A	
C. SIGNATURE (To be completed by the applicant.)	
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.	
 Property Owner or Agent Signature	6-24-13 Date Submitted
<p align="center">PLEASE COMPLETE SECTION "D" ON THE NEXT PAGE IF THERE IS NO PROJECT RELATED TO THIS ENVIRONMENTAL REVIEW</p>	

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D. SUPPLEMENT SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (DO NOT USE THE FOLLOWING FOR PROJECT ACTIONS)	Space Reserved For Agency Comments
<p>Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities that would likely result from the proposal and how it would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented.</p>	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 2013</p> <p style="text-align: center;">CITY OF YAKIMA PLANNING DIV.</p>
<p>1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? The proposed Zoning Ordinance change will not affect how land uses discharge to water, emissions to the air, storage, or release of toxic or hazardous substances, or the production of noise.</p>	
<p>Proposed measures to avoid or reduce such increases are: As the proposal will not increase any of the above environmental conditions, no measures to avoid or reduce these conditions have been proposed.</p>	
<p>2. How would the proposal be likely to affect plants, animals, fish, or marine life? The proposed zoning changes will not affect plants, animals, fish, or marine life as all the proposed changes will not change any existing environmental regulations.</p>	
<p>a. Proposed measures to protect or conserve plants, animals, fish, or marine life are: As the proposal will not effect any of the above animal life, no measures to protect or conserve plant and animal life has been proposed.</p>	
<p>3. How would the proposal be likely to deplete energy or natural resources? The proposed zoning amendments do not involve regulations dealing with energy or natural resources.</p>	
<p>Proposed measures to protect or conserve energy and natural resources are: None proposed.</p>	
<p>4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? The proposed zoning amendments do not propose any change to regulations for environmentally sensitive areas or areas designated for governmental protection.</p>	
<p>Proposed measures to protect such resources or to avoid or reduce impacts are: None proposed.</p>	
<p>5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? No change to land and shoreline uses are proposed.</p>	
<p>Proposed measures to avoid or reduce shoreline and land use impacts are: None proposed</p>	
<p>6. How would the proposal be likely to increase demands on transportation or public services and utilities? The proposed zoning changes would not be likely to increase demand on the transportation or public service system and utilities as the regulatory changes only address processing of various land use applications.</p>	
<p>Proposed measures to reduce or respond to such demand(s) are: None proposed.</p>	

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D. SUPPLEMENT SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (DO NOT USE THE FOLLOWING FOR PROJECT ACTIONS)	Space Reserved For Agency Comments
<p>7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.</p> <p>The proposed zoning amendments will not conflict with any local, state, or federal laws, or requirements for the protection of the environment.</p>	

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